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SENATE BILL 6097

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State of Washington                      58th Legislature                      2003 1st Special Session

By Senators Honeyford and Mulliken

Read first time . Referred to .

1            AN ACT Relating to revising the unemployment compensation system  
2 through creating forty rate classes for determining employer  
3 contribution rates; amending RCW 50.01.010, 50.04.030, 50.20.010,  
4 50.20.050, 50.04.293, 50.20.060, 50.20.065, 50.20.240, 50.20.120,  
5 50.29.025, 50.04.355, 50.29.026, 50.29.062, 50.29.070, 50.12.220,  
6 50.16.010, 50.16.015, 50.24.014, 50.20.190, 50.04.206, 50.20.080,  
7 50.20.140, 50.20.043, 50.20.160, 50.32.040, 50.20.100, and 28B.50.030;  
8 reenacting and amending RCW 50.29.020; adding a new section to chapter  
9 50.04 RCW; adding a new section to chapter 50.20 RCW; adding a new  
10 section to chapter 50.29 RCW; creating new sections; repealing RCW  
11 50.20.015, 50.20.045, 50.20.125, and 50.29.045; providing expiration  
12 dates; and declaring an emergency.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14            **Sec. 1.** RCW 50.01.010 and 1945 c 35 s 2 are each amended to read  
15 as follows:

16            Whereas, economic insecurity due to unemployment is a serious  
17 menace to the health, morals and welfare of the people of this state;  
18 involuntary unemployment is, therefore, a subject of general interest  
19 and concern which requires appropriate action by the legislature to

1 prevent its spread and to lighten its burden which now so often falls  
2 with crushing force upon the unemployed worker and his family. Social  
3 security requires protection against this greatest hazard of our  
4 economic life. This can be provided only by application of the  
5 insurance principle of sharing the risks, and by the systematic  
6 accumulation of funds during periods of employment to provide benefits  
7 for periods of unemployment, thus maintaining purchasing powers and  
8 limiting the serious social consequences of relief assistance. The  
9 state of Washington, therefore, exercising herein its police and  
10 sovereign power endeavors by this title to remedy any widespread  
11 unemployment situation which may occur and to set up safeguards to  
12 prevent its recurrence in the years to come. The legislature,  
13 therefore, declares that in its considered judgment the public good,  
14 and the general welfare of the citizens of this state require the  
15 enactment of this measure, under the police powers of the state, for  
16 the compulsory setting aside of unemployment reserves to be used for  
17 the benefit of persons unemployed through no fault of their own(~~(, and~~  
18 ~~that this title shall be liberally construed for the purpose of~~  
19 ~~reducing involuntary unemployment and the suffering caused thereby to~~  
20 ~~the minimum))).~~

21 **PART I - UNEMPLOYMENT ELIGIBILITY AND COMPENSATION**

22 **Sec. 2.** RCW 50.04.030 and 1991 c 117 s 1 are each amended to read  
23 as follows:

24 (1)(a) "Benefit year" with respect to each individual, means the  
25 fifty-two consecutive week period beginning with the first day of the  
26 calendar week in which the individual files an application for an  
27 initial determination and thereafter the fifty-two consecutive week  
28 period beginning with the first day of the calendar week in which the  
29 individual next files an application for an initial determination after  
30 the expiration of the individual's last preceding benefit year:  
31 PROVIDED, HOWEVER, That the foregoing limitation shall not be deemed to  
32 preclude the establishment of a new benefit year under the laws of  
33 another state pursuant to any agreement providing for the interstate  
34 combining of employment and wages and the interstate payment of  
35 benefits nor shall this limitation be deemed to preclude the  
36 commissioner from backdating an initial application at the request of

1 the claimant either for the convenience of the department of employment  
2 security or for any other reason deemed by the commissioner to be good  
3 cause.

4 (b) An individual's benefit year shall be extended to be fifty-  
5 three weeks when at the expiration of fifty-two weeks the establishment  
6 of a new benefit year would result in the use of a quarter of wages in  
7 the new base year that had been included in the individual's prior base  
8 year.

9 (2)(a)(i) With respect to claims that have an effective date before  
10 January 4, 2004, no benefit year will be established unless it is  
11 determined that the individual earned wages in "employment" in not less  
12 than six hundred eighty hours of the individual's base year((+  
13 PROVIDED, HOWEVER, That)).

14 (ii) With respect to claims that have an effective date on or after  
15 January 4, 2004, no benefit year will be established unless it is  
16 determined that: (A) The individual earned wages in "employment" in  
17 not less than seven hundred eighty hours of the individual's base year;  
18 (B) the individual earned wages in "employment" in at least three  
19 quarters of the individual's base year; and (C) the individual's total  
20 base year wages were at least one and one-half times the wages in the  
21 quarter of the individual's base year in which the wages were highest.

22 (b) A benefit year cannot be established if the base year wages  
23 include wages earned prior to the establishment of a prior benefit year  
24 unless the individual worked and earned wages since the last separation  
25 from employment immediately before the application for initial  
26 determination in the previous benefit year if the applicant was an  
27 unemployed individual at the time of application, or since the initial  
28 separation in the previous benefit year if the applicant was not an  
29 unemployed individual at the time of filing an application for initial  
30 determination for the previous benefit year, of not less than six times  
31 the weekly benefit amount computed for the individual's new benefit  
32 year.

33 (c) If an individual's prior benefit year was based on the last  
34 four completed calendar quarters, a new benefit year shall not be  
35 established until the new base year does not include any hours used in  
36 the establishment of the prior benefit year.

37 (3) If the wages of an individual are not based upon a fixed  
38 duration of time or if the individual's wages are paid at irregular

1 intervals or in such manner as not to extend regularly over the period  
2 of employment, the wages for any week shall be determined in such  
3 manner as the commissioner may by regulation prescribe. Such  
4 regulation shall, so far as possible, secure results reasonably similar  
5 to those which would prevail if the individual were paid his or her  
6 wages at regular intervals.

7 (4)(a) Beginning with claims that have an effective date on or  
8 after January 2, 2005, if a claimant is a seasonal worker:

9 (i) Who earned wages in "employment" in fewer than one thousand  
10 five hundred hours in his or her base year, benefits are payable to the  
11 claimant during a calendar week of the claimant's benefit year only if  
12 the week corresponds to a calendar week within a seasonal work period  
13 of a base year employer who had been designated as a seasonal employer  
14 by the commissioner under this section.

15 (ii) Who earned wages in "employment" in one thousand five hundred  
16 hours or more in his or her base year, benefits are payable to the  
17 claimant during any calendar week of the claimant's benefit year as  
18 otherwise provided in this title.

19 (b)(i) Between January 1st and April 1st of any year, an employer  
20 may apply to the commissioner in writing for designation as a seasonal  
21 employer, effective on the date determined by the commissioner. By  
22 June 30th, the commissioner shall determine if the employer is a  
23 seasonal employer and, if the employer is designated a seasonal  
24 employer, identify one or more seasonal work periods of the employer.  
25 The commissioner's determination regarding an employer's status as a  
26 seasonal employer, or a decision of an administrative law judge or of  
27 the court regarding the employer's status as a seasonal employer, which  
28 has become final and is not subject to further appeal, together with  
29 the record thereof, may be introduced in any proceeding involving a  
30 claim for benefits, and the facts found and decision issued in the  
31 determination or decision shall be conclusive unless the claimant  
32 introduces substantial evidence to the contrary.

33 (ii) A determination of seasonal employer status shall remain in  
34 effect until the commissioner, on the commissioner's own motion for  
35 good cause or upon the written request of the employer, issues a  
36 determination terminating an employer's status as a seasonal employer.  
37 A termination determination under this subsection becomes effective as  
38 specified by the commissioner.

1 (c) At the time an employee is hired by a seasonal employer, the  
2 employer must notify the employee in writing that the employee may be  
3 a seasonal worker.

4 (d) As used in this subsection:

5 (i) "Seasonal employer" means an employer who:

6 (A) With respect to a period identified by the employer of twelve  
7 consecutive calendar months preceding the employer's application, has  
8 reduced his or her work force by at least sixty percent from the  
9 highest level of employment in a seasonal work period to the lowest  
10 level of employment at any point in the twelve calendar month period;  
11 and

12 (B) Operates in an industry or with a process which, because of  
13 conditions related to climate, agriculture, food fish, shellfish, or  
14 natural resources, makes it impractical or impossible for the employer  
15 to operate without the reduction in employment specified in (d)(i)(A)  
16 of this subsection.

17 (ii) "Seasonal worker" means a worker who earned at least seventy-  
18 five percent of his or her base year wages in employment with one or  
19 more seasonal employers during one or more seasonal work periods.

20 (iii) "Seasonal work period" means a regularly recurring period in  
21 any twelve consecutive calendar months that is determined by the  
22 commissioner to be a period during which the seasonal employer  
23 customarily operates and because of which the employer meets the  
24 definition of "seasonal employer."

25 **Sec. 3.** RCW 50.20.010 and 1995 c 381 s 1 are each amended to read  
26 as follows:

27 (1) An unemployed individual shall be eligible to receive waiting  
28 period credits or benefits with respect to any week in his or her  
29 eligibility period only if the commissioner finds that:

30 ((+1)) (a) He or she has registered for work at, and thereafter  
31 has continued to report at, an employment office in accordance with  
32 such regulation as the commissioner may prescribe, except that the  
33 commissioner may by regulation waive or alter either or both of the  
34 requirements of this subdivision as to individuals attached to regular  
35 jobs and as to such other types of cases or situations with respect to  
36 which the commissioner finds that the compliance with such requirements

1 would be oppressive, or would be inconsistent with the purposes of this  
2 title;

3 ~~((+2))~~ (b) He or she has filed an application for an initial  
4 determination and made a claim for waiting period credit or for  
5 benefits in accordance with the provisions of this title;

6 ~~((+3))~~ (c) He or she is able to work, and is available for work in  
7 any trade, occupation, profession, or business for which he or she is  
8 reasonably fitted. With respect to claims that have an effective date  
9 before January 4, 2004, to be available for work an individual must be  
10 ready, able, and willing, immediately to accept any suitable work which  
11 may be offered to him or her and must be actively seeking work pursuant  
12 to customary trade practices and through other methods when so directed  
13 by the commissioner or the commissioner's agents. With respect to  
14 claims that have an effective date on or after January 4, 2004, to be  
15 available for work an individual must be ready, able, and willing,  
16 immediately to accept any suitable work which may be offered to him or  
17 her and must be actively seeking work pursuant to customary trade  
18 practices in accordance with a labor agreement and dispatch rules and  
19 through other methods when so directed by the commissioner or the  
20 commissioner's agents; if a labor agreement or dispatch rules apply,  
21 customary trade practices must be in accordance with the applicable  
22 agreement or rules;

23 ~~((+4))~~ (d) He or she has been unemployed for a waiting period of  
24 one week;

25 ~~((+5))~~ (e) He or she participates in reemployment services if the  
26 individual has been referred to reemployment services pursuant to the  
27 profiling system established by the commissioner under RCW 50.20.011,  
28 unless the commissioner determines that:

29 ~~((+a))~~ (i) The individual has completed such services; or

30 ~~((+b))~~ (ii) There is justifiable cause for the claimant's failure  
31 to participate in such services; and

32 ~~((+6))~~ (f) As to weeks beginning after March 31, 1981, which fall  
33 within an extended benefit period as defined in RCW 50.22.010, the  
34 individual meets the terms and conditions of RCW 50.22.020 with respect  
35 to benefits claimed in excess of twenty-six times the individual's  
36 weekly benefit amount.

37 (2) An individual's eligibility period for regular benefits shall

1 be coincident to his or her established benefit year. An individual's  
2 eligibility period for additional or extended benefits shall be the  
3 periods prescribed elsewhere in this title for such benefits.

4 **Sec. 4.** RCW 50.20.050 and 2002 c 8 s 1 are each amended to read as  
5 follows:

6 (1) With respect to claims that have an effective date before  
7 January 4, 2004:

8 (a) An individual shall be disqualified from benefits beginning  
9 with the first day of the calendar week in which he or she has left  
10 work voluntarily without good cause and thereafter for seven calendar  
11 weeks and until he or she has obtained bona fide work in employment  
12 covered by this title and earned wages in that employment equal to  
13 seven times his or her weekly benefit amount.

14 The disqualification shall continue if the work obtained is a mere  
15 sham to qualify for benefits and is not bona fide work. In determining  
16 whether work is of a bona fide nature, the commissioner shall consider  
17 factors including but not limited to the following:

- 18 ~~((a))~~ (i) The duration of the work;
- 19 ~~((b))~~ (ii) The extent of direction and control by the employer  
20 over the work; and
- 21 ~~((c))~~ (iii) The level of skill required for the work in light of  
22 the individual's training and experience.

23 ~~((2))~~ (b) An individual shall not be considered to have left work  
24 voluntarily without good cause when:

25 ~~((a))~~ (i) He or she has left work to accept a bona fide offer of  
26 bona fide work as described in ~~((subsection (1)))~~ (a) of this  
27 ~~((section))~~ subsection;

28 ~~((b))~~ (ii) The separation was because of the illness or  
29 disability of the claimant or the death, illness, or disability of a  
30 member of the claimant's immediate family if the claimant took all  
31 reasonable precautions, in accordance with any regulations that the  
32 commissioner may prescribe, to protect his or her employment status by  
33 having promptly notified the employer of the reason for the absence and  
34 by having promptly requested reemployment when again able to assume  
35 employment: PROVIDED, That these precautions need not have been taken  
36 when they would have been a futile act, including those instances when

1 the futility of the act was a result of a recognized labor/management  
2 dispatch system;

3 ~~((e))~~ (iii) He or she has left work to relocate for the spouse's  
4 employment that is due to an employer-initiated mandatory transfer that  
5 is outside the existing labor market area if the claimant remained  
6 employed as long as was reasonable prior to the move; or

7 ~~((d))~~ (iv) The separation was necessary to protect the claimant  
8 or the claimant's immediate family members from domestic violence, as  
9 defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

10 ~~((3))~~ (c) In determining under this ~~((section))~~ subsection  
11 whether an individual has left work voluntarily without good cause, the  
12 commissioner shall only consider work-connected factors such as the  
13 degree of risk involved to the individual's health, safety, and morals,  
14 the individual's physical fitness for the work, the individual's  
15 ability to perform the work, and such other work connected factors as  
16 the commissioner may deem pertinent, including state and national  
17 emergencies. Good cause shall not be established for voluntarily  
18 leaving work because of its distance from an individual's residence  
19 where the distance was known to the individual at the time he or she  
20 accepted the employment and where, in the judgment of the department,  
21 the distance is customarily traveled by workers in the individual's job  
22 classification and labor market, nor because of any other significant  
23 work factor which was generally known and present at the time he or she  
24 accepted employment, unless the related circumstances have so changed  
25 as to amount to a substantial involuntary deterioration of the work  
26 factor or unless the commissioner determines that other related  
27 circumstances would work an unreasonable hardship on the individual  
28 were he or she required to continue in the employment.

29 ~~((4))~~ (d) Subsection~~((s))~~ (1)(a) and ~~((3))~~ (c) of this section  
30 shall not apply to an individual whose marital status or domestic  
31 responsibilities cause him or her to leave employment. Such an  
32 individual shall not be eligible for unemployment insurance benefits  
33 beginning with the first day of the calendar week in which he or she  
34 left work and thereafter for seven calendar weeks and until he or she  
35 has requalified, either by obtaining bona fide work in employment  
36 covered by this title and earning wages in that employment equal to  
37 seven times his or her weekly benefit amount or by reporting in person  
38 to the department during ten different calendar weeks and certifying on

1 each occasion that he or she is ready, able, and willing to immediately  
2 accept any suitable work which may be offered, is actively seeking work  
3 pursuant to customary trade practices, and is utilizing such employment  
4 counseling and placement services as are available through the  
5 department. This subsection does not apply to individuals covered by  
6 (~~subsection (2)(b) or (c) of this section~~) (b)(ii) or (iii) of this  
7 subsection.

8 (2) With respect to claims that have an effective date on or after  
9 January 4, 2004:

10 (a) An individual shall be disqualified from benefits beginning  
11 with the first day of the calendar week in which he or she has left  
12 work voluntarily without good cause and thereafter for seven calendar  
13 weeks and until he or she has obtained bona fide work in employment  
14 covered by this title and earned wages in that employment equal to  
15 seven times his or her weekly benefit amount.

16 The disqualification shall continue if the work obtained is a mere  
17 sham to qualify for benefits and is not bona fide work. In determining  
18 whether work is of a bona fide nature, the commissioner shall consider  
19 factors including but not limited to the following:

20 (i) The duration of the work;

21 (ii) The extent of direction and control by the employer over the  
22 work; and

23 (iii) The level of skill required for the work in light of the  
24 individual's training and experience.

25 (b) An individual is not disqualified from benefits under (a) of  
26 this subsection when:

27 (i) He or she has left work to accept a bona fide offer of bona  
28 fide work as described in (a) of this subsection;

29 (ii) The separation was necessary because of the illness or  
30 disability of the claimant or the death, illness, or disability of a  
31 member of the claimant's immediate family if:

32 (A) The claimant pursued all reasonable alternatives to preserve  
33 his or her employment status by requesting a leave of absence, by  
34 having promptly notified the employer of the reason for the absence,  
35 and by having promptly requested reemployment when again able to assume  
36 employment. These alternatives need not be pursued, however, when they  
37 would have been a futile act, including those instances when the

1 futility of the act was a result of a recognized labor/management  
2 dispatch system; and

3 (B) The claimant terminated his or her employment status, and is  
4 not entitled to be reinstated to the same position or a comparable or  
5 similar position;

6 (iii) He or she: (A) Left work to relocate for the spouse's  
7 employment that, due to a mandatory military transfer: (I) Is outside  
8 the existing labor market area; and (II) is in Washington or another  
9 state that, pursuant to statute, does not consider such an individual  
10 to have left work voluntarily without good cause; and (B) remained  
11 employed as long as was reasonable prior to the move;

12 (iv) The separation was necessary to protect the claimant or the  
13 claimant's immediate family members from domestic violence, as defined  
14 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

15 (v) The individual's usual compensation was reduced by twenty-five  
16 percent or more;

17 (vi) The individual's usual hours were reduced by twenty-five  
18 percent or more;

19 (vii) The individual's worksite changed, such change caused a  
20 material increase in distance or difficulty of travel, and, after the  
21 change, the commute was greater than is customary for workers in the  
22 individual's job classification and labor market;

23 (viii) The individual's worksite safety deteriorated, the  
24 individual reported such safety deterioration to the employer, and the  
25 employer failed to correct the hazards within a reasonable period of  
26 time;

27 (ix) The individual left work because of illegal activities in the  
28 individual's worksite, the individual reported such activities to the  
29 employer, and the employer failed to end such activities within a  
30 reasonable period of time; or

31 (x) The individual's usual work was changed to work that violates  
32 the individual's religious convictions or sincere moral beliefs.

33 **Sec. 5.** RCW 50.04.293 and 1993 c 483 s 1 are each amended to read  
34 as follows:

35 With respect to claims that have an effective date before January  
36 4, 2004, "misconduct" means an employee's act or failure to act in

1 willful disregard of his or her employer's interest where the effect of  
2 the employee's act or failure to act is to harm the employer's  
3 business.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.04 RCW  
5 to read as follows:

6 With respect to claims that have an effective date on or after  
7 January 4, 2004:

8 (1) "Misconduct" includes, but is not limited to, the following  
9 conduct by a claimant:

10 (a) Willful or wanton disregard of the rights, title, and interests  
11 of the employer or a fellow employee;

12 (b) Deliberate violations or disregard of standards of behavior  
13 which the employer has the right to expect of an employee;

14 (c) Carelessness or negligence that causes or would likely cause  
15 serious bodily harm to the employer or a fellow employee; or

16 (d) Carelessness or negligence of such degree or recurrence to show  
17 an intentional or substantial disregard of the employer's interest.

18 (2) The following acts are considered misconduct because the acts  
19 signify a willful or wanton disregard of the rights, title, and  
20 interests of the employer or a fellow employee. These acts include,  
21 but are not limited to:

22 (a) Insubordination showing a deliberate, willful, or purposeful  
23 refusal to follow the reasonable directions or instructions of the  
24 employer;

25 (b) Repeated inexcusable tardiness following warnings by the  
26 employer;

27 (c) Dishonesty related to employment, including but not limited to  
28 deliberate falsification of company records, theft, deliberate  
29 deception, or lying;

30 (d) Repeated and inexcusable absences, including absences for which  
31 the employee was able to give advance notice and failed to do so;

32 (e) Deliberate acts that are illegal, provoke violence or violation  
33 of laws, or violate the collective bargaining agreement. However, an  
34 employee who engages in lawful union activity may not be disqualified  
35 due to misconduct;

36 (f) Violation of a company rule if the rule is reasonable and if  
37 the claimant knew or should have known of the existence of the rule; or

1 (g) Violations of law by the claimant while acting within the scope  
2 of employment that substantially affect the claimant's job performance  
3 or that substantially harm the employer's ability to do business.

4 (3) "Misconduct" does not include:

5 (a) Inefficiency, unsatisfactory conduct, or failure to perform  
6 well as the result of inability or incapacity;

7 (b) Inadvertence or ordinary negligence in isolated instances; or

8 (c) Good faith errors in judgment or discretion.

9 (4) "Gross misconduct" means a criminal act in connection with an  
10 individual's work for which the individual has been convicted in a  
11 criminal court, or has admitted committing, or conduct connected with  
12 the individual's work that demonstrates a flagrant and wanton disregard  
13 of and for the rights, title, or interest of the employer or a fellow  
14 employee.

15 **Sec. 7.** RCW 50.20.060 and 2000 c 2 s 13 are each amended to read  
16 as follows:

17 With respect to claims that have an effective date before January  
18 4, 2004, an individual shall be disqualified from benefits beginning  
19 with the first day of the calendar week in which he or she has been  
20 discharged or suspended for misconduct connected with his or her work  
21 and thereafter for seven calendar weeks and until he or she has  
22 obtained bona fide work in employment covered by this title and earned  
23 wages in that employment equal to seven times his or her weekly benefit  
24 amount. Alcoholism shall not constitute a defense to disqualification  
25 from benefits due to misconduct.

26 **Sec. 8.** RCW 50.20.065 and 1993 c 483 s 11 are each amended to read  
27 as follows:

28 With respect to claims that have an effective date before January  
29 4, 2004:

30 (1) An individual who has been discharged from his or her work  
31 because of a felony or gross misdemeanor of which he or she has been  
32 convicted, or has admitted committing to a competent authority, and  
33 that is connected with his or her work shall have all hourly wage  
34 credits based on that employment canceled.

35 (2) The employer shall notify the department of such an admission

1 or conviction, not later than six months following the admission or  
2 conviction.

3 (3) The claimant shall disclose any conviction of the claimant of  
4 a work-connected felony or gross misdemeanor occurring in the previous  
5 two years to the department at the time of application for benefits.

6 (4) All benefits that are paid in error based on wage/hour credits  
7 that should have been removed from the claimant's base year are  
8 recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other  
9 provisions of this title.

10 NEW SECTION. **Sec. 9.** A new section is added to chapter 50.20 RCW  
11 to read as follows:

12 With respect to claims that have an effective date on or after  
13 January 4, 2004:

14 (1) An individual shall be disqualified from benefits beginning  
15 with the first day of the calendar week in which he or she has been  
16 discharged or suspended for misconduct connected with his or her work  
17 and thereafter for ten calendar weeks and until he or she has obtained  
18 bona fide work in employment covered by this title and earned wages in  
19 that employment equal to ten times his or her weekly benefit amount.  
20 Alcoholism shall not constitute a defense to disqualification from  
21 benefits due to misconduct.

22 (2) An individual who has been discharged from his or her work  
23 because of gross misconduct shall have all hourly wage credits based on  
24 that employment or seven hundred eighty hours of wage credits,  
25 whichever is greater, canceled.

26 (3) The employer shall notify the department of a felony or gross  
27 misdemeanor of which an individual has been convicted, or has admitted  
28 committing to a competent authority, not later than six months  
29 following the admission or conviction.

30 (4) The claimant shall disclose any conviction of the claimant of  
31 a work-connected felony or gross misdemeanor occurring in the previous  
32 two years to the department at the time of application for benefits.

33 (5) All benefits that are paid in error based on this section are  
34 recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other  
35 provisions of this title.

1       **Sec. 10.** RCW 50.20.240 and 2002 c 8 s 3 are each amended to read  
2 as follows:

3       (1)(a) To ensure that following the initial application for  
4 benefits, an individual is actively engaged in searching for work,  
5 ((effective July 1, 1999,)) the employment security department shall  
6 implement a job search monitoring program. Effective January 4, 2004,  
7 the department shall contract with employment security agencies in  
8 other states to ensure that individuals residing in those states and  
9 receiving benefits under this title are actively engaged in searching  
10 for work in accordance with the requirements of this section. The  
11 department may use interactive voice technology and other electronic  
12 means to ensure that individuals are subject to comparable job search  
13 monitoring, regardless of whether they reside in Washington or  
14 elsewhere.

15       (b) Except for those individuals with employer attachment or union  
16 referral, individuals who qualify for unemployment compensation under  
17 RCW 50.20.050((+2)(d)) (1)(b)(iii) or (2)(b)(v), as applicable, and  
18 individuals in commissioner-approved training, an individual who has  
19 received five or more weeks of benefits under this title, regardless of  
20 whether the individual resides in Washington or elsewhere, must provide  
21 evidence of seeking work, as directed by the commissioner or the  
22 commissioner's agents, for each week beyond five in which a claim is  
23 filed. With regard to claims with an effective date before January 4,  
24 2004, the evidence must demonstrate contacts with at least three  
25 employers per week or documented in-person job search activity at the  
26 local reemployment center. With regard to claims with an effective  
27 date on or after January 4, 2004, the evidence must demonstrate  
28 contacts with at least three employers per week or documented in-person  
29 job search activities at the local reemployment center at least three  
30 times per week.

31       (c) In developing the requirements for the job search monitoring  
32 program, the commissioner or the commissioner's agents shall utilize an  
33 existing advisory committee having equal representation of employers  
34 and workers.

35       (2) Effective January 4, 2004, an individual who fails to comply  
36 fully with the requirements for actively seeking work under RCW  
37 50.20.010 shall lose all benefits for all weeks during which the

1 individual was not in compliance, and the individual shall be liable  
2 for repayment of all such benefits under RCW 50.20.190.

3 **Sec. 11.** RCW 50.20.120 and 2002 c 149 s 4 are each amended to read  
4 as follows:

5 (1)(a) Subject to the other provisions of this title, benefits  
6 shall be payable to any eligible individual during the individual's  
7 benefit year in a maximum amount equal to the lesser of thirty times  
8 the weekly benefit amount (~~((determined hereinafter))~~), as determined  
9 in subsection (2) of this section, or one-third of the individual's  
10 base year wages under this title: PROVIDED, That as to any week  
11 (~~((beginning on and after March 31, 1981,))~~) which falls in an extended  
12 benefit period as defined in RCW 50.22.010(1), (~~((as now or hereafter~~  
13 ~~amended,))~~) an individual's eligibility for maximum benefits in excess  
14 of twenty-six times his or her weekly benefit amount will be subject to  
15 the terms and conditions set forth in RCW 50.22.020(~~((, as now or~~  
16 ~~hereafter amended))~~).

17 (b) With respect to claims that have an effective date on or after  
18 July 3, 2005, benefits shall be payable to any eligible individual  
19 during the individual's benefit year in a maximum amount equal to the  
20 lesser of twenty-six times the weekly benefit amount, as determined in  
21 subsection (2) of this section, or one-third of the individual's base  
22 year wages under this title.

23 (2) An individual's weekly benefit amount shall be an amount equal  
24 to one twenty-fifth of the average quarterly wages of the individual's  
25 total wages during the two quarters of the individual's base year in  
26 which such total wages were highest. The maximum and minimum amounts  
27 payable weekly shall be determined as of each June 30th to apply to  
28 benefit years beginning in the twelve-month period immediately  
29 following such June 30th. (~~((Except as provided in RCW 50.20.125,))~~)

30 (a)(i) With respect to claims that have an effective date before  
31 January 4, 2004, the maximum amount payable weekly shall be seventy  
32 percent of the "average weekly wage" for the calendar year preceding  
33 such June 30th.

34 (ii) With respect to claims that have an effective date on or after  
35 January 4, 2004, the maximum amount payable weekly shall be either four  
36 hundred ninety-six dollars or sixty percent of the "average weekly

1 wage" for the calendar year preceding such June 30th, whichever is  
2 greater.

3 (b) The minimum amount payable weekly shall be fifteen percent of  
4 the "average weekly wage" for the calendar year preceding such June  
5 30th.

6 (c) If any weekly benefit, maximum benefit, or minimum benefit  
7 amount computed herein is not a multiple of one dollar, it shall be  
8 reduced to the next lower multiple of one dollar.

9 NEW SECTION. Sec. 12. (1) It is the intent of the legislature  
10 that a transitional training benefits program be established to provide  
11 unemployment insurance benefits to unemployed individuals who are: (a)  
12 Eligible for regular benefits under this title before January 4, 2004,  
13 but would not be eligible as of January 4, 2004; and (b) participating  
14 in training programs approved by the commissioner.

15 (2) With respect to claims that have an effective date before  
16 January 4, 2004, the employment security department is authorized to  
17 pay transitional training benefits under this section, but may not  
18 obligate expenditures of more than nineteen million dollars for  
19 transitional training benefits.

20 (3) Subject to availability of funds, transitional training  
21 benefits are available for an individual who:

22 (a) Is eligible for or has exhausted entitlement to unemployment  
23 compensation benefits;

24 (b)(i) Did not: (A) Earn wages in "employment" in at least seven  
25 hundred eighty hours of the individual's base year; (B) earn wages in  
26 "employment" in at least three quarters of the individual's base year;  
27 or (C) have total base year wages that were at least one and one-half  
28 times the wages in the quarter of the individual's base year in which  
29 the wages were highest; or

30 (ii) As a seasonal worker, would not have received benefits under  
31 this title if RCW 50.04.030(4) had applied to the individual;

32 (c) Develops an individual training program that is submitted to  
33 the commissioner for approval within sixty days after the individual is  
34 notified by the employment security department of the requirements of  
35 this section;

36 (d) Enters the approved training program by ninety days after the  
37 date of the notification, unless the employment security department

1 determines that the training is not available during the ninety-day  
2 period, in which case the individual enters training as soon as it is  
3 available; and

4 (e) Is enrolled in training approved under this section on a  
5 full-time basis as determined by the educational institution, and is  
6 making satisfactory progress in the training as certified by the  
7 educational institution.

8 (4) Benefits under this section shall be paid to eligible  
9 exhaustees as follows:

10 (a) The total benefit amount shall be fifty-two times the  
11 individual's weekly benefit amount, reduced by the total amount of  
12 regular benefits and extended benefits paid, or deemed paid, with  
13 respect to the benefit year.

14 (b) The weekly benefit amount shall be the same as the regular  
15 weekly amount payable during the applicable benefit year and shall be  
16 paid under the same terms and conditions as regular benefits. The  
17 transitional training benefits shall be paid before any extended  
18 benefits but not before any similar federally funded program.

19 (c) Transitional training benefits are not payable for weeks more  
20 than two years beyond the end of the benefit year of the regular claim.

21 (5) The requirement under RCW 50.22.010(10) relating to exhausting  
22 regular benefits does not apply to an individual otherwise eligible for  
23 training benefits under this section when the individual's benefit year  
24 ends before his or her training benefits are exhausted and the  
25 individual is eligible for a new benefit year. These individuals will  
26 have the option of remaining on the original claim or filing a new  
27 claim.

28 (6) An individual who received benefits under any other additional  
29 benefits program for training within the five-year period immediately  
30 preceding application under this section is not eligible for training  
31 benefits under this section.

32 (7) An individual eligible to receive emergency unemployment  
33 compensation, so called, under any federal law, is not eligible to  
34 receive benefits under this section for each week the individual  
35 receives such compensation.

36 (8) All base year employers are interested parties to the approval  
37 of training and the granting of transitional training benefits.

1 (9) For purposes of this section, "educational institution" and  
2 "training program" mean the same as the definitions in RCW 50.22.150.

3 **PART II - FINANCING UNEMPLOYMENT COMPENSATION**

4 **Sec. 13.** RCW 50.29.025 and 2003 c 4 (SHB 1832) s 1 are each  
5 amended to read as follows:

6 (1) Except as provided in subsection (2) of this section, the  
7 contribution rate for each employer subject to contributions under RCW  
8 50.24.010 shall be determined under this ~~((section))~~ subsection.

9 ~~((1))~~ (a) A fund balance ratio shall be determined by dividing  
10 the balance in the unemployment compensation fund as of the September  
11 30th immediately preceding the rate year by the total remuneration paid  
12 by all employers subject to contributions during the second calendar  
13 year preceding the rate year and reported to the department by the  
14 following March 31st. The division shall be carried to the fourth  
15 decimal place with the remaining fraction, if any, disregarded. The  
16 fund balance ratio shall be expressed as a percentage.

17 ~~((2))~~ (b) The interval of the fund balance ratio, expressed as a  
18 percentage, shall determine which tax schedule in (e) of this  
19 subsection ~~((5) of this section))~~ shall be in effect for assigning tax  
20 rates for the rate year. The intervals for determining the effective  
21 tax schedule shall be:

22	Interval of the	
23	Fund Balance Ratio	Effective
24	Expressed as a Percentage	Tax Schedule
25	2.90 and above	AA
26	2.10 to 2.89	A
27	1.70 to 2.09	B
28	1.40 to 1.69	C
29	1.00 to 1.39	D
30	0.70 to 0.99	E
31	Less than 0.70	F

32 ~~((3))~~ (c) An array shall be prepared, listing all qualified  
33 employers in ascending order of their benefit ratios. The array shall  
34 show for each qualified employer: ~~((a))~~ (i) Identification number;

1 ~~((b))~~ (ii) benefit ratio; ~~((e))~~ (iii) taxable payrolls for the four  
 2 calendar quarters immediately preceding the computation date and  
 3 reported to the department by the cut-off date; ~~((d))~~ (iv) a  
 4 cumulative total of taxable payrolls consisting of the employer's  
 5 taxable payroll plus the taxable payrolls of all other employers  
 6 preceding him or her in the array; and ~~((e))~~ (v) the percentage  
 7 equivalent of the cumulative total of taxable payrolls.

8 ~~((4))~~ (d) Each employer in the array shall be assigned to one of  
 9 twenty rate classes according to the percentage intervals of cumulative  
 10 taxable payrolls set forth in (e) of this subsection ~~((5) of this~~  
 11 ~~section))~~: PROVIDED, That if an employer's taxable payroll falls  
 12 within two or more rate classes, the employer and any other employer  
 13 with the same benefit ratio shall be assigned to the lowest rate class  
 14 which includes any portion of the employer's taxable payroll.

15 ~~((5))~~ (e) Except as provided in RCW 50.29.026, the contribution  
 16 rate for each employer in the array shall be the rate specified in the  
 17 following tables for the rate class to which he or she has been  
 18 assigned, as determined under (d) of this subsection ~~((4) of this~~  
 19 ~~section))~~, within the tax schedule which is to be in effect during the  
 20 rate year:

		Percent of		Schedules of Contributions Rates							
		Cumulative		for Effective Tax Schedule							
		Taxable Payrolls									
		Rate									
From	To Class	AA	A	B	C	D	E	F			
0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47		
5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67		
10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87		
15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98		
20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08		
25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18		
30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27		
35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47		
40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66		
45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86		
50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95		
55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15		

1	60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34
2	65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54
3	70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63
4	75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73
5	80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
6	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
7	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
8	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

9           ~~((6))~~ (f) The contribution rate for each employer not qualified  
10 to be in the array shall be as follows:

11           ~~((a))~~ (i) Employers who do not meet the definition of "qualified  
12 employer" by reason of failure to pay contributions when due shall be  
13 assigned a contribution rate two-tenths higher than that in rate class  
14 20 for the applicable rate year, except employers who have an approved  
15 agency-deferred payment contract by September 30 of the previous rate  
16 year. If any employer with an approved agency-deferred payment  
17 contract fails to make any one of the succeeding deferred payments or  
18 fails to submit any succeeding tax report and payment in a timely  
19 manner, the employer's tax rate shall immediately revert to a  
20 contribution rate two-tenths higher than that in rate class 20 for the  
21 applicable rate year; and

22           ~~((b))~~ (ii) For all other employers not qualified to be in the  
23 array, the contribution rate shall be a rate equal to the average  
24 industry rate as determined by the commissioner; however, the rate may  
25 not be less than one percent. ~~((Assignment of employers by the  
26 commissioner to industrial classification, for purposes of this  
27 section, shall be in accordance with established classification  
28 practices found in the "Standard Industrial Classification Manual"  
29 issued by the federal office of management and budget to the third  
30 digit provided in the standard industrial classification code, or in  
31 the North American industry classification system code.))~~

32           (2) Beginning with contributions assessed for rate year 2005, the  
33 contribution rate for each employer subject to contributions under RCW  
34 50.24.010 shall be the sum of the array calculation factor rate and the  
35 graduated social cost factor rate determined under this subsection.

36           (a) The array calculation factor rate shall be determined as  
37 follows:

38           (i) An array shall be prepared, listing all qualified employers in  
39 ascending order of their benefit ratios. The array shall show for each

1 qualified employer: (A) Identification number; (B) benefit ratio; and  
2 (C) taxable payrolls for the four consecutive calendar quarters  
3 immediately preceding the computation date and reported to the  
4 employment security department by the cut-off date.

5 (ii) Each employer in the array shall be assigned to one of forty  
6 rate classes according to his or her benefit ratio as follows, and,  
7 except as provided in RCW 50.29.026, the array calculation factor rate  
8 for each employer in the array shall be the rate specified in the rate  
9 class to which the employer has been assigned:

	<u>Benefit Ratio</u>		<u>Rate</u>	<u>Rate</u>
	<u>At least</u>	<u>Less than</u>	<u>Class</u>	<u>(percent)</u>
10		<u>0.000000</u>	<u>1</u>	<u>0.00</u>
11		<u>0.000001</u>	<u>2</u>	<u>0.13</u>
12	<u>0.000001</u>	<u>0.001250</u>	<u>3</u>	<u>0.25</u>
13	<u>0.001250</u>	<u>0.002500</u>	<u>4</u>	<u>0.38</u>
14	<u>0.002500</u>	<u>0.003750</u>	<u>5</u>	<u>0.50</u>
15	<u>0.003750</u>	<u>0.005000</u>	<u>6</u>	<u>0.63</u>
16	<u>0.005000</u>	<u>0.006250</u>	<u>7</u>	<u>0.75</u>
17	<u>0.006250</u>	<u>0.007500</u>	<u>8</u>	<u>0.88</u>
18	<u>0.007500</u>	<u>0.008750</u>	<u>9</u>	<u>1.00</u>
19	<u>0.008750</u>	<u>0.010000</u>	<u>10</u>	<u>1.15</u>
20	<u>0.010000</u>	<u>0.011250</u>	<u>11</u>	<u>1.30</u>
21	<u>0.011250</u>	<u>0.012500</u>	<u>12</u>	<u>1.45</u>
22	<u>0.012500</u>	<u>0.013750</u>	<u>13</u>	<u>1.60</u>
23	<u>0.013750</u>	<u>0.015000</u>	<u>14</u>	<u>1.75</u>
24	<u>0.015000</u>	<u>0.016250</u>	<u>15</u>	<u>1.90</u>
25	<u>0.016250</u>	<u>0.017500</u>	<u>16</u>	<u>2.05</u>
26	<u>0.017500</u>	<u>0.018750</u>	<u>17</u>	<u>2.20</u>
27	<u>0.018750</u>	<u>0.020000</u>	<u>18</u>	<u>2.35</u>
28	<u>0.020000</u>	<u>0.021250</u>	<u>19</u>	<u>2.50</u>
29	<u>0.021250</u>	<u>0.022500</u>	<u>20</u>	<u>2.65</u>
30	<u>0.022500</u>	<u>0.023750</u>	<u>21</u>	<u>2.80</u>
31	<u>0.023750</u>	<u>0.025000</u>	<u>22</u>	<u>2.95</u>
32	<u>0.025000</u>	<u>0.026250</u>	<u>23</u>	<u>3.10</u>
33	<u>0.026250</u>	<u>0.027500</u>	<u>24</u>	<u>3.25</u>
34	<u>0.027500</u>	<u>0.028750</u>	<u>25</u>	<u>3.40</u>
35	<u>0.028750</u>	<u>0.030000</u>		
36				

1	<u>0.030000</u>	<u>0.031250</u>	<u>26</u>	<u>3.55</u>
2	<u>0.031250</u>	<u>0.032500</u>	<u>27</u>	<u>3.70</u>
3	<u>0.032500</u>	<u>0.033750</u>	<u>28</u>	<u>3.85</u>
4	<u>0.033750</u>	<u>0.035000</u>	<u>29</u>	<u>4.00</u>
5	<u>0.035000</u>	<u>0.036250</u>	<u>30</u>	<u>4.15</u>
6	<u>0.036250</u>	<u>0.037500</u>	<u>31</u>	<u>4.30</u>
7	<u>0.037500</u>	<u>0.040000</u>	<u>32</u>	<u>4.45</u>
8	<u>0.040000</u>	<u>0.042500</u>	<u>33</u>	<u>4.60</u>
9	<u>0.042500</u>	<u>0.045000</u>	<u>34</u>	<u>4.75</u>
10	<u>0.045000</u>	<u>0.047500</u>	<u>35</u>	<u>4.90</u>
11	<u>0.047500</u>	<u>0.050000</u>	<u>36</u>	<u>5.05</u>
12	<u>0.050000</u>	<u>0.052500</u>	<u>37</u>	<u>5.20</u>
13	<u>0.052500</u>	<u>0.055000</u>	<u>38</u>	<u>5.30</u>
14	<u>0.055000</u>	<u>0.057500</u>	<u>39</u>	<u>5.35</u>
15	<u>0.057500</u>		<u>40</u>	<u>5.40</u>

16       (b) The graduated social cost factor rate shall be determined as  
17 follows:

18       (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,  
19 the commissioner shall calculate the flat social cost factor for a rate  
20 year by dividing the total social cost by the total taxable payroll.  
21 The division shall be carried to the second decimal place with the  
22 remaining fraction disregarded unless it amounts to five hundredths or  
23 more, in which case the second decimal place shall be rounded to the  
24 next higher digit. The flat social cost factor shall be expressed as  
25 a percentage.

26       (B) If, on the cut-off date, the balance in the unemployment  
27 compensation fund is determined by the commissioner to be an amount  
28 that will provide more than ten months of unemployment benefits, the  
29 commissioner shall calculate the flat social cost factor for the rate  
30 year immediately following the cut-off date by reducing the total  
31 social cost by the dollar amount that represents the number of months  
32 for which the balance in the unemployment compensation fund on the cut-  
33 off date will provide benefits above ten months and dividing the result  
34 by the total taxable payroll. However, the calculation under this  
35 subsection (2)(b)(i)(B) for a rate year may not result in a flat social  
36 cost factor that is more than three-tenths lower than the calculation  
37 under (b)(i)(A) of this subsection for that rate year. For the  
38 purposes of this subsection, the commissioner shall determine the

1 number of months of unemployment benefits in the unemployment  
2 compensation fund using the benefit cost rate for the average of the  
3 three highest calendar benefit cost rates in the twenty consecutive  
4 completed calendar years immediately preceding the cut-off date or a  
5 period of consecutive calendar years immediately preceding the cut-off  
6 date that includes three recessions, if longer.

7 (C) The minimum flat social cost factor calculated under this  
8 subsection (2)(b) shall be six-tenths of one percent.

9 (ii) The graduated social cost factor rate for each employer in the  
10 array is the flat social cost factor multiplied by the percentage  
11 specified as follows for the rate class to which the employer has been  
12 assigned in (a)(ii) of this subsection, except that the sum of an  
13 employer's array calculation factor rate and the graduated social cost  
14 factor rate may not exceed six and five-tenths percent:

15 (A) Rate class 1 - 78 percent;

16 (B) Rate class 2 - 82 percent;

17 (C) Rate class 3 - 86 percent;

18 (D) Rate class 4 - 90 percent;

19 (E) Rate class 5 - 94 percent;

20 (F) Rate class 6 - 98 percent;

21 (G) Rate class 7 - 102 percent;

22 (H) Rate class 8 - 106 percent;

23 (I) Rate class 9 - 110 percent;

24 (J) Rate class 10 - 114 percent;

25 (K) Rate class 11 - 118 percent; and

26 (L) Rate classes 12 through 40 - 120 percent.

27 (iii) For the purposes of this section:

28 (A) "Total social cost" means the amount calculated by subtracting  
29 the array calculation factor contributions paid by all employers with  
30 respect to the four consecutive calendar quarters immediately preceding  
31 the computation date and paid to the employment security department by  
32 the cut-off date from the total unemployment benefits paid to claimants  
33 in the same four consecutive calendar quarters. To calculate the flat  
34 social cost factor for rate year 2005, the commissioner shall calculate  
35 the total social cost using the array calculation factor contributions  
36 that would have been required to be paid by all employers in the  
37 calculation period if (a) of this subsection had been in effect for the  
38 relevant period.

1       (B) "Total taxable payroll" means the total amount of wages subject  
2 to tax, as determined under RCW 50.24.010, for all employers in the  
3 four consecutive calendar quarters immediately preceding the  
4 computation date and reported to the employment security department by  
5 the cut-off date.

6       (c) The array calculation factor rate for each employer not  
7 qualified to be in the array shall be as follows:

8       (i) Employers who do not meet the definition of "qualified  
9 employer" by reason of failure to pay contributions when due shall be  
10 assigned an array calculation factor rate two-tenths higher than that  
11 in rate class 40, except employers who have an approved agency-deferred  
12 payment contract by September 30th of the previous rate year. If any  
13 employer with an approved agency-deferred payment contract fails to  
14 make any one of the succeeding deferred payments or fails to submit any  
15 succeeding tax report and payment in a timely manner, the employer's  
16 tax rate shall immediately revert to an array calculation factor rate  
17 two-tenths higher than that in rate class 40; and

18       (ii) For all other employers not qualified to be in the array, the  
19 array calculation factor rate shall be a rate equal to the average  
20 industry array calculation factor rate as determined by the  
21 commissioner plus fifteen percent; however, the rate may not be less  
22 than one percent or more than the array calculation factor rate in rate  
23 class 40.

24       (d) The graduated social cost factor rate for each employer not  
25 qualified to be in the array shall be as follows:

26       (i) For employers whose array calculation factor rate is determined  
27 under (c)(i) of this subsection, the social cost factor rate shall be  
28 the social cost factor rate assigned to rate class 40 under (b)(ii) of  
29 this subsection.

30       (ii) For employers whose array calculation factor rate is  
31 determined under (c)(ii) of this subsection, the social cost factor  
32 rate shall be a rate equal to the average industry social cost factor  
33 rate as determined by the commissioner, plus fifteen percent, but not  
34 more than the social cost factor rate assigned to rate class 40 under  
35 (b)(ii) of this subsection.

36       (3) Assignment of employers by the commissioner to industrial  
37 classification, for purposes of this section, shall be in accordance  
38 with established classification practices found in the "Standard

1 Industrial Classification Manual" issued by the federal office of  
2 management and budget to the third digit provided in the standard  
3 industrial classification code, or in the North American industry  
4 classification system code.

5 **Sec. 14.** RCW 50.04.355 and 2000 c 2 s 1 are each amended to read  
6 as follows:

7 (1) For computations made before January 1, 2007, the employment  
8 security department shall compute, on or before the fifteenth day of  
9 June of each year, an "average annual wage", an "average weekly wage",  
10 and an "average annual wage for contributions purposes" (~~shall be~~  
11 computed)) from information for the specified preceding calendar years  
12 including corrections thereof reported within three months after the  
13 close of the final year of the specified years by all employers as  
14 defined in RCW 50.04.080.

15 ~~((1))~~ (a) The "average annual wage" is the quotient derived by  
16 dividing the total remuneration reported by all employers for the  
17 preceding calendar year by the average number of workers reported for  
18 all months of the preceding calendar year and if the result is not a  
19 multiple of one dollar, rounding the result to the next lower multiple  
20 of one dollar.

21 ~~((2))~~ (b) The "average weekly wage" is the quotient derived by  
22 dividing the "average annual wage" obtained under ~~((1))~~ (a) of this  
23 subsection by fifty-two and if the result is not a multiple of one  
24 dollar, rounding the result to the next lower multiple of one dollar.

25 ~~((3))~~ (c) The "average annual wage for ~~((contribution[s]))~~  
26 contributions purposes" is the quotient derived by dividing by three  
27 the total remuneration reported by all employers subject to  
28 contributions for the preceding three consecutive calendar years and  
29 dividing this amount by the average number of workers reported for all  
30 months of these three years by these same employers and if the result  
31 is not a multiple of one dollar, rounding the result to the next lower  
32 multiple of one dollar.

33 (2) For computations made on or after January 1, 2007, the  
34 employment security department shall compute, on or before the  
35 fifteenth day of June of each year, an "average annual wage," an  
36 "average weekly wage," and an "average annual wage for contributions

1 purposes" from information for the preceding calendar year including  
2 corrections thereof reported within three months after the close of  
3 that year by all employers as defined in RCW 50.04.080.

4 (a) The "average annual wage" is the quotient derived by dividing  
5 the total remuneration reported by all employers by the average number  
6 of workers reported for all months and if the result is not a multiple  
7 of one dollar, rounding the result to the next lower multiple of one  
8 dollar.

9 (b) The "average weekly wage" is the quotient derived by dividing  
10 the "average annual wage" obtained under (a) of this subsection by  
11 fifty-two and if the result is not a multiple of one dollar, rounding  
12 the result to the next lower multiple of one dollar.

13 (c) The "average annual wage for contributions purposes" is the  
14 quotient derived by dividing the total remuneration reported by all  
15 employers subject to contributions by the average number of workers  
16 reported for all months by these same employers and if the result is  
17 not a multiple of one dollar, rounding the result to the next lower  
18 multiple of one dollar.

19 **Sec. 15.** RCW 50.29.026 and 2000 c 2 s 5 are each amended to read  
20 as follows:

21 (1) Beginning with contributions assessed for rate year 1996, a  
22 qualified employer's contribution rate applicable for rate years  
23 beginning before January 1, 2005, or array calculation factor rate  
24 applicable for rate years beginning on or after January 1, 2005,  
25 determined under RCW 50.29.025 may be modified as follows:

26 (a) Subject to the limitations of this subsection, an employer may  
27 make a voluntary contribution of an amount equal to part or all of the  
28 benefits charged to the employer's account during the two years most  
29 recently ended on June 30th that were used for the purpose of computing  
30 the employer's contribution rate applicable for rate years beginning  
31 before January 1, 2005, or array calculation factor rate applicable for  
32 rate years beginning on or after January 1, 2005. On receiving timely  
33 payment of a voluntary contribution, plus a surcharge of ten percent of  
34 the amount of the voluntary contribution, the commissioner shall cancel  
35 the benefits equal to the amount of the voluntary contribution,  
36 excluding the surcharge, and compute a new benefit ratio for the  
37 employer. The employer shall then be assigned the contribution rate

1 applicable for rate years beginning before January 1, 2005, or array  
2 calculation factor rate applicable for rate years beginning on or after  
3 January 1, 2005, applicable to the rate class within which the  
4 recomputed benefit ratio is included. The minimum amount of a  
5 voluntary contribution, excluding the surcharge, must be an amount that  
6 will result in a recomputed benefit ratio that is in a rate class at  
7 least two rate classes lower than the rate class that included the  
8 employer's original benefit ratio.

9 (b) Payment of a voluntary contribution is considered timely if  
10 received by the department during the period beginning on the date of  
11 mailing to the employer the notice of contribution rate applicable for  
12 rate years beginning before January 1, 2005, or notice of array  
13 calculation factor rate applicable for rate years beginning on or after  
14 January 1, 2005, required under this title for the rate year for which  
15 the employer is seeking a modification of his or her (~~contribution~~)  
16 rate and ending on February 15th of that rate year or, for voluntary  
17 contributions for rate year 2000, ending on March 31, 2000.

18 (c) A benefit ratio may not be recomputed nor a (~~contribution~~)  
19 rate be reduced under this section as a result of a voluntary  
20 contribution received after the payment period prescribed in (b) of  
21 this subsection.

22 (2) This section does not apply to any employer who has not had an  
23 increase of at least six rate classes from the previous tax rate year.

24 **Sec. 16.** RCW 50.29.062 and 1996 c 238 s 1 are each amended to read  
25 as follows:

26 Predecessor and successor employer contribution rates shall be  
27 computed in the following manner:

28 (1) If the successor is an employer, as defined in RCW 50.04.080,  
29 at the time of the transfer, its contribution rate shall remain  
30 unchanged for the remainder of the rate year in which the transfer  
31 occurs. From and after January 1 following the transfer, the  
32 successor's contribution rate for each rate year shall be based on its  
33 experience with payrolls and benefits including the experience of the  
34 acquired business or portion of a business from the date of transfer,  
35 as of the regular computation date for that rate year.

36 (2) For transfers before January 1, 2005, the following applies if

1 the successor is not an employer at the time of the transfer(~~(it)~~).  
2 The successor shall pay contributions at the lowest rate determined  
3 under either of the following:

4 (a)(i) For transfers before January 1, 1997, the contribution rate  
5 of the rate class assigned to the predecessor employer at the time of  
6 the transfer for the remainder of that rate year and continuing until  
7 the successor qualifies for a different rate in its own right;

8 (ii) For transfers on or after January 1, 1997, the contribution  
9 rate of the rate class assigned to the predecessor employer at the time  
10 of the transfer for the remainder of that rate year. Any experience  
11 relating to the assignment of that rate class attributable to the  
12 predecessor is transferred to the successor. Beginning with the  
13 January 1 following the transfer, the successor's contribution rate  
14 shall be based on the transferred experience of the acquired business  
15 and the successor's experience after the transfer; or

16 (b) The contribution rate equal to the average industry rate as  
17 determined by the commissioner, but not less than one percent, and  
18 continuing until the successor qualifies for a different rate in its  
19 own right. Assignment of employers by the commissioner to industrial  
20 classification, for purposes of this subsection, must be in accordance  
21 with established classification practices found in the "Standard  
22 Industrial Classification Manual" issued by the federal office of  
23 management and budget to the third digit provided in the standard  
24 industrial classification code, or in the North American industry  
25 classification code system.

26 (3) For transfers before January 1, 2005, if the successor is not  
27 an employer at the time of the transfer and simultaneously acquires the  
28 business or a portion of the business of two or more employers in  
29 different rate classes, its rate from the date the transfer occurred  
30 until the end of that rate year and until it qualifies in its own right  
31 for a new rate, shall be the highest rate class applicable at the time  
32 of the acquisition to any predecessor employer who is a party to the  
33 acquisition, but not less than one percent.

34 (4) For transfers on or after January 1, 2005, the following  
35 applies if the successor is not an employer at the time of the  
36 transfer:

37 (a) Except as provided in (b) of this subsection, the successor  
38 shall pay contributions:

1 (i) At the contribution rate determined for the predecessor  
2 employer at the time of the transfer for the remainder of the rate  
3 year. Any experience attributable to the predecessor relating to the  
4 assignment of the predecessor's rate class is transferred to the  
5 successor. On and after January 1st following the transfer, the  
6 successor's array calculation factor rate shall be based on the  
7 transferred experience of the acquired business and the successor's  
8 experience after the transfer; or

9 (ii) At the contribution rate equal to the sum of the rates  
10 determined by the commissioner under RCW 50.29.025(2) (c)(ii) and  
11 (d)(ii), and continuing until the successor qualifies for a different  
12 rate in its own right.

13 (b) If there is a substantial continuity of ownership or management  
14 by the successor of the business of the predecessor, the successor  
15 shall pay contributions at the contribution rate determined for the  
16 predecessor employer at the time of the transfer for the remainder of  
17 that rate year. Any experience attributable to the predecessor  
18 relating to the assignment of the predecessor's rate class is  
19 transferred to the successor. On and after January 1st following the  
20 transfer, the successor's array calculation factor rate shall be based  
21 on the transferred experience of the acquired business and the  
22 successor's experience after the transfer.

23 (c) If the successor simultaneously acquires the business or a  
24 portion of the business of two or more employers with different  
25 contribution rates, the successor's rate from the date the transfer  
26 occurred until the end of that rate year and until it qualifies in its  
27 own right for a new rate, shall be the rate applicable at the time of  
28 the acquisition to the predecessor employer who, among the parties to  
29 the acquisition, had the largest taxable payroll in the completed  
30 calendar quarter immediately preceding the date of transfer, but not  
31 less than the sum of the rates determined by the commissioner under RCW  
32 50.29.025(2) (c)(ii) and (d)(ii).

33 (5) The contribution rate on any payroll retained by a predecessor  
34 employer shall remain unchanged for the remainder of the rate year in  
35 which the transfer occurs.

36 ~~((+5))~~ (6) In all cases, from and after January 1 following the  
37 transfer, the predecessor's contribution rate or, beginning January 1,  
38 2005, the predecessor's array calculation factor for each rate year

1 shall be based on its experience with payrolls and benefits as of the  
2 regular computation date for that rate year including the experience of  
3 the acquired business or portion of business up to the date of  
4 transfer: PROVIDED, That if all of the predecessor's business is  
5 transferred to a successor or successors, the predecessor shall not be  
6 a qualified employer until it satisfies the requirements of a  
7 "qualified employer" as set forth in RCW 50.29.010.

8 **Sec. 17.** RCW 50.29.070 and 1990 c 245 s 8 are each amended to read  
9 as follows:

10 (1) Within a reasonable time after the computation date each  
11 employer shall be notified of the employer's rate of contribution as  
12 determined for the succeeding rate year and factors used in the  
13 calculation. Beginning with rate year 2005, the notice must include  
14 the amount of the contribution rate that is attributable to each  
15 component of the rate under RCW 50.29.025(2).

16 (2) Any employer dissatisfied with the benefit charges made to the  
17 employer's account for the twelve-month period immediately preceding  
18 the computation date or with his or her determined rate may file a  
19 request for review and redetermination with the commissioner within  
20 thirty days of the mailing of the notice to the employer, showing the  
21 reason for such request. Should such request for review and  
22 redetermination be denied, the employer may, within thirty days of the  
23 mailing of such notice of denial, file with the appeal tribunal a  
24 petition for hearing which shall be heard in the same manner as a  
25 petition for denial of refund. The appellate procedure prescribed by  
26 this title for further appeal shall apply to all denials of review and  
27 redetermination under this section.

28 **Sec. 18.** RCW 50.29.020 and 2002 c 149 s 6 and 2002 c 8 s 4 are  
29 each reenacted and amended to read as follows:

30 (1) This section applies to benefits charged to the experience  
31 rating accounts of employers for claims that have an effective date  
32 before January 4, 2004.

33 (2) An experience rating account shall be established and  
34 maintained for each employer, except employers as described in RCW  
35 50.44.010 and 50.44.030 who have properly elected to make payments in  
36 lieu of contributions, taxable local government employers as described

1 in RCW 50.44.035, and those employers who are required to make payments  
2 in lieu of contributions, based on existing records of the employment  
3 security department. Benefits paid to any eligible individuals shall  
4 be charged to the experience rating accounts of each of such  
5 individual's employers during the individual's base year in the same  
6 ratio that the wages paid by each employer to the individual during the  
7 base year bear to the wages paid by all employers to that individual  
8 during that base year, except as otherwise provided in this section.

9 ~~((+2))~~ (3) The legislature finds that certain benefit payments, in  
10 whole or in part, should not be charged to the experience rating  
11 accounts of employers except those employers described in RCW 50.44.010  
12 and 50.44.030 who have properly elected to make payments in lieu of  
13 contributions, taxable local government employers described in RCW  
14 50.44.035, and those employers who are required to make payments in  
15 lieu of contributions, as follows:

16 (a) Benefits paid to any individuals later determined to be  
17 ineligible shall not be charged to the experience rating account of any  
18 contribution paying employer.

19 (b) Benefits paid to an individual filing under the provisions of  
20 chapter 50.06 RCW shall not be charged to the experience rating account  
21 of any contribution paying employer only if:

22 (i) The individual files under RCW 50.06.020(1) after receiving  
23 crime victims' compensation for a disability resulting from a nonwork-  
24 related occurrence; or

25 (ii) The individual files under RCW 50.06.020(2).

26 (c) Benefits paid which represent the state's share of benefits  
27 payable as extended benefits defined under RCW 50.22.010(6) shall not  
28 be charged to the experience rating account of any contribution paying  
29 employer.

30 (d) In the case of individuals who requalify for benefits under RCW  
31 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
32 the disqualifying separation shall not be charged to the experience  
33 rating account of the contribution paying employer from whom that  
34 separation took place.

35 (e) Individuals who qualify for benefits under RCW  
36 50.20.050~~((+2)(d))~~ (1)(b)(iii) shall not have their benefits charged  
37 to the experience rating account of any contribution paying employer.

1 (f) In the case of individuals identified under RCW 50.20.015,  
2 benefits paid with respect to a calendar quarter, which exceed the  
3 total amount of wages earned in the state of Washington in the higher  
4 of two corresponding calendar quarters included within the individual's  
5 determination period, as defined in RCW 50.20.015, shall not be charged  
6 to the experience rating account of any contribution paying employer.

7 ~~((3)(a))~~ (4)(a) A contribution-paying base year employer, not  
8 otherwise eligible for relief of charges for benefits under this  
9 section, may receive such relief if the benefit charges result from  
10 payment to an individual who:

11 (i) Last left the employ of such employer voluntarily for reasons  
12 not attributable to the employer;

13 (ii) Was discharged for misconduct connected with his or her work  
14 not a result of inability to meet the minimum job requirements;

15 (iii) Is unemployed as a result of closure or severe curtailment of  
16 operation at the employer's plant, building, worksite, or other  
17 facility. This closure must be for reasons directly attributable to a  
18 catastrophic occurrence such as fire, flood, or other natural disaster;  
19 or

20 (iv) Continues to be employed on a regularly scheduled permanent  
21 part-time basis by a base year employer and who at some time during the  
22 base year was concurrently employed and subsequently separated from at  
23 least one other base year employer. Benefit charge relief ceases when  
24 the employment relationship between the employer requesting relief and  
25 the claimant is terminated. This subsection does not apply to shared  
26 work employers under chapter 50.60 RCW.

27 (b) The employer requesting relief of charges under this subsection  
28 must request relief in writing within thirty days following mailing to  
29 the last known address of the notification of the valid initial  
30 determination of such claim, stating the date and reason for the  
31 separation or the circumstances of continued employment. The  
32 commissioner, upon investigation of the request, shall determine  
33 whether relief should be granted.

34 NEW SECTION. **Sec. 19.** A new section is added to chapter 50.29 RCW  
35 to read as follows:

36 (1) This section applies to benefits charged to the experience

1 rating accounts of employers for claims that have an effective date on  
2 or after January 4, 2004.

3 (2)(a) An experience rating account shall be established and  
4 maintained for each employer, except employers as described in RCW  
5 50.44.010 and 50.44.030 who have properly elected to make payments in  
6 lieu of contributions, taxable local government employers as described  
7 in RCW 50.44.035, and those employers who are required to make payments  
8 in lieu of contributions, based on existing records of the employment  
9 security department.

10 (b) Benefits paid to an eligible individual shall be charged to the  
11 experience rating accounts of each of such individual's employers  
12 during the individual's base year in the same ratio that the wages paid  
13 by each employer to the individual during the base year bear to the  
14 wages paid by all employers to that individual during that base year,  
15 except as otherwise provided in this section.

16 (c) When the eligible individual's separating employer is a covered  
17 contribution paying base year employer, benefits paid to the eligible  
18 individual shall be charged to the experience rating account of only  
19 the individual's separating employer if the individual qualifies for  
20 benefits under:

21 (i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed  
22 after having worked and earned wages in the bona fide work; or

23 (ii) RCW 50.20.050(2)(b)(v) through (x).

24 (d) Benefits paid to an individual under RCW 50.04.030(4)(a) with  
25 respect to weeks of the benefit year that correspond to calendar weeks  
26 within a seasonal work period of a base year employer who had been  
27 designated as a seasonal employer by the commissioner under RCW  
28 50.04.030(4) shall be charged to the experience rating account of that  
29 contribution paying seasonal employer.

30 (3) The legislature finds that certain benefit payments, in whole  
31 or in part, should not be charged to the experience rating accounts of  
32 employers except those employers described in RCW 50.44.010 and  
33 50.44.030 who have properly elected to make payments in lieu of  
34 contributions, taxable local government employers described in RCW  
35 50.44.035, and those employers who are required to make payments in  
36 lieu of contributions, as follows:

37 (a) Benefits paid to any individual later determined to be

1 ineligible shall not be charged to the experience rating account of any  
2 contribution paying employer.

3 (b) Benefits paid to an individual filing under the provisions of  
4 chapter 50.06 RCW shall not be charged to the experience rating account  
5 of any contribution paying employer only if:

6 (i) The individual files under RCW 50.06.020(1) after receiving  
7 crime victims' compensation for a disability resulting from a nonwork-  
8 related occurrence; or

9 (ii) The individual files under RCW 50.06.020(2).

10 (c) Benefits paid which represent the state's share of benefits  
11 payable as extended benefits defined under RCW 50.22.010(6) shall not  
12 be charged to the experience rating account of any contribution paying  
13 employer.

14 (d) In the case of individuals who requalify for benefits under RCW  
15 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
16 the disqualifying separation shall not be charged to the experience  
17 rating account of the contribution paying employer from whom that  
18 separation took place.

19 (e) Individuals who qualify for benefits under RCW  
20 50.20.050(2)(b)(iv), as applicable, shall not have their benefits  
21 charged to the experience rating account of any contribution paying  
22 employer.

23 (f) Benefits paid to an individual under RCW 50.04.030(4)(a)(ii)  
24 that are paid for weeks that do not fall within a period designated by  
25 the commissioner as a seasonal work period of any of the individual's  
26 base year employers shall not be charged to the experience rating  
27 account of any contribution paying employer.

28 (g) Benefits paid to an individual under section 12 of this act  
29 shall not be charged to the experience rating account of any  
30 contribution paying employer.

31 (4)(a) A contribution paying base year employer, not otherwise  
32 eligible for relief of charges for benefits under this section, may  
33 receive such relief if the benefit charges result from payment to an  
34 individual who:

35 (i) Last left the employ of such employer voluntarily for reasons  
36 not attributable to the employer;

37 (ii) Was discharged for misconduct or gross misconduct connected

1 with his or her work not a result of inability to meet the minimum job  
2 requirements;

3 (iii) Is unemployed as a result of closure or severe curtailment of  
4 operation at the employer's plant, building, worksite, or other  
5 facility. This closure must be for reasons directly attributable to a  
6 catastrophic occurrence such as fire, flood, or other natural disaster;  
7 or

8 (iv) Continues to be employed on a regularly scheduled permanent  
9 part-time basis by a base year employer and who at some time during the  
10 base year was concurrently employed and subsequently separated from at  
11 least one other base year employer. Benefit charge relief ceases when  
12 the employment relationship between the employer requesting relief and  
13 the claimant is terminated. This subsection does not apply to shared  
14 work employers under chapter 50.60 RCW.

15 (b) The employer requesting relief of charges under this subsection  
16 must request relief in writing within thirty days following mailing to  
17 the last known address of the notification of the valid initial  
18 determination of such claim, stating the date and reason for the  
19 separation or the circumstances of continued employment. The  
20 commissioner, upon investigation of the request, shall determine  
21 whether relief should be granted.

22 **Sec. 20.** RCW 50.12.220 and 1987 c 111 s 2 are each amended to read  
23 as follows:

24 (1)(a) If an employer fails to file in a timely and complete manner  
25 a report required by RCW 50.12.070 (~~(as now or hereafter amended)~~), or  
26 the rules adopted pursuant thereto, the employer shall be subject to a  
27 ~~((minimum))~~ penalty ~~((of ten dollars per violation))~~ to be determined  
28 by the commissioner, but not to exceed two hundred fifty dollars or ten  
29 percent of the quarterly contributions for each such offense, whichever  
30 is less.

31 (b) If an employer knowingly misrepresents to the employment  
32 security department the amount of his or her payroll upon which  
33 contributions under this title are based, the employer shall be liable  
34 to the state for up to ten times the amount of the difference in  
35 contributions paid, if any, and the amount the employer should have  
36 paid and for the reasonable expenses of auditing his or her books and

1 collecting such sums. Such liability may be enforced in the name of  
2 the department.

3 (c) If any part of a delinquency for which an assessment is made  
4 under this title is due to an intent to evade the successorship  
5 provisions of RCW 50.29.062, the commissioner shall assign to the  
6 employer, and to any business found to be promoting the evasion of such  
7 provisions, the tax rate determined under RCW 50.29.025 for rate class  
8 20 or rate class 40, as applicable, for five consecutive calendar  
9 quarters, beginning with the calendar quarter in which the intent to  
10 evade such provision is found.

11 (2) If contributions are not paid on the date on which they are due  
12 and payable as prescribed by the commissioner, there shall be assessed  
13 a penalty of five percent of the amount of the contributions for the  
14 first month or part thereof of delinquency; there shall be assessed a  
15 total penalty of ten percent of the amount of the contributions for the  
16 second month or part thereof of delinquency; and there shall be  
17 assessed a total penalty of twenty percent of the amount of the  
18 contributions for the third month or part thereof of delinquency. No  
19 penalty so added shall be less than ten dollars. These penalties are  
20 in addition to the interest charges assessed under RCW 50.24.040.

21 (3) Penalties shall not accrue on contributions from an estate in  
22 the hands of a receiver, executor, administrator, trustee in  
23 bankruptcy, common law assignee, or other liquidating officer  
24 subsequent to the date when such receiver, executor, administrator,  
25 trustee in bankruptcy, common law assignee, or other liquidating  
26 officer qualifies as such, but contributions accruing with respect to  
27 employment of persons by a receiver, executor, administrator, trustee  
28 in bankruptcy, common law assignee, or other liquidating officer shall  
29 become due and shall be subject to penalties in the same manner as  
30 contributions due from other employers.

31 (4) Where adequate information has been furnished to the department  
32 and the department has failed to act or has advised the employer of no  
33 liability or inability to decide the issue, penalties shall be waived  
34 by the commissioner. Penalties may also be waived for good cause if  
35 the commissioner determines that the failure to timely file reports or  
36 pay contributions was not due to the employer's fault.

37 (5) Any decision to assess a penalty as provided by this section

1 shall be made by the chief administrative officer of the tax branch or  
2 his or her designee.

3 (6) Nothing in this section shall be construed to deny an employer  
4 the right to appeal the assessment of any penalty. Such appeal shall  
5 be made in the manner provided in RCW 50.32.030.

6 **Sec. 21.** RCW 50.16.010 and 2002 c 371 s 914 are each amended to  
7 read as follows:

8 (1) There shall be maintained as special funds, separate and apart  
9 from all public moneys or funds of this state an unemployment  
10 compensation fund, an administrative contingency fund, and a federal  
11 interest payment fund, which shall be administered by the commissioner  
12 exclusively for the purposes of this title, and to which RCW 43.01.050  
13 shall not be applicable.

14 (2)(a) The unemployment compensation fund shall consist of:

15 ~~((1))~~ (i) All contributions collected under RCW 50.24.010 and  
16 payments in lieu of contributions collected pursuant to the provisions  
17 of this title~~((7))~~i

18 ~~((2))~~ (ii) Any property or securities acquired through the use of  
19 moneys belonging to the fund~~((7))~~i

20 ~~((3))~~ (iii) All earnings of such property or securities~~((7))~~i

21 ~~((4))~~ (iv) Any moneys received from the federal unemployment  
22 account in the unemployment trust fund in accordance with Title XII of  
23 the social security act, as amended~~((7))~~i

24 ~~((5))~~ (v) All money recovered on official bonds for losses  
25 sustained by the fund~~((7))~~i

26 ~~((6))~~ (vi) All money credited to this state's account in the  
27 unemployment trust fund pursuant to section 903 of the social security  
28 act, as amended~~((7))~~i

29 ~~((7))~~ (vii) All money received from the federal government as  
30 reimbursement pursuant to section 204 of the federal-state extended  
31 compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304)~~((7))~~i  
32 and

33 ~~((8))~~ (viii) All moneys received for the fund from any other  
34 source.

35 (b) All moneys in the unemployment compensation fund shall be  
36 commingled and undivided.

1        (3)(a) Except as provided in (b) of this subsection, the  
2 administrative contingency fund shall consist of:

3        (i) All interest on delinquent contributions collected pursuant to  
4 this title((τ)):

5        (ii) All fines and penalties collected pursuant to the provisions  
6 of this title((τ)):

7        (iii) All sums recovered on official bonds for losses sustained by  
8 the fund((τ)): and

9        (iv) Revenue received under RCW 50.24.014(~~PROVIDED, That~~).

10       (b) All fees, fines, forfeitures, and penalties collected or  
11 assessed by a district court because of the violation of ((a state  
12 law)) this title or rules adopted under this title shall be remitted as  
13 provided in chapter 3.62 RCW ((as now exists or is later amended)).

14       (c) Moneys available in the administrative contingency fund, other  
15 than money in the special account created under RCW 50.24.014(1)(a),  
16 shall be expended upon the direction of the commissioner, with the  
17 approval of the governor, whenever it appears to him or her that such  
18 expenditure is necessary solely for:

19       ~~((a))~~ (i) The proper administration of this title and no federal  
20 funds are available for the specific purpose to which such expenditure  
21 is to be made, provided, the moneys are not substituted for  
22 appropriations from federal funds which, in the absence of such moneys,  
23 would be made available.

24       ~~((b))~~ (ii) The proper administration of this title for which  
25 purpose appropriations from federal funds have been requested but not  
26 yet received, provided, the administrative contingency fund will be  
27 reimbursed upon receipt of the requested federal appropriation.

28       ~~((c))~~ (iii) The proper administration of this title for which  
29 compliance and audit issues have been identified that establish federal  
30 claims requiring the expenditure of state resources in resolution.  
31 Claims must be resolved in the following priority: First priority is  
32 to provide services to eligible participants within the state; second  
33 priority is to provide substitute services or program support; and last  
34 priority is the direct payment of funds to the federal government.

35       ~~((d) ((During the 2001-2003 fiscal biennium, the cost of worker~~  
36 ~~retraining programs at community and technical colleges as appropriated~~  
37 ~~by the legislature.))~~

1 Money in the special account created under RCW 50.24.014(1)(a) may  
2 only be expended, after appropriation, for the purposes specified in  
3 this section and RCW 50.62.010, 50.62.020, 50.62.030, (~~50.04.070,~~  
4 ~~50.04.072, 50.16.010, 50.29.025,~~) 50.24.014, 50.44.053, and 50.22.010.

5 **Sec. 22.** RCW 50.16.015 and 1983 1st ex.s. c 13 s 6 are each  
6 amended to read as follows:

7 A separate and identifiable fund to provide for the payment of  
8 interest on advances received from this state's account in the federal  
9 unemployment trust fund shall be established and administered under the  
10 direction of the commissioner. This fund shall be known as the federal  
11 interest payment fund and shall consist of contributions paid under RCW  
12 50.16.070. All money in this fund shall be expended solely for the  
13 payment of interest on advances received from this state's account in  
14 the federal unemployment trust fund and for no other purposes  
15 whatsoever.

16 **Sec. 23.** RCW 50.24.014 and 2000 c 2 s 15 are each amended to read  
17 as follows:

18 (1)(a) A separate and identifiable account to provide for the  
19 financing of special programs to assist the unemployed is established  
20 in the administrative contingency fund. All money in this account  
21 shall be expended solely for the purposes of this title and for no  
22 other purposes whatsoever. Contributions to this account shall accrue  
23 and become payable by each employer, except employers as described in  
24 RCW 50.44.010 and 50.44.030 who have properly elected to make payments  
25 in lieu of contributions, taxable local government employers as  
26 described in RCW 50.44.035, and those employers who are required to  
27 make payments in lieu of contributions, at a basic rate of two one-  
28 hundredths of one percent. The amount of wages subject to tax shall be  
29 determined under RCW 50.24.010.

30 (b) A separate and identifiable account is established in the  
31 administrative contingency fund for financing the employment security  
32 department's administrative cost under RCW 50.22.150 and the costs  
33 under RCW 50.22.150(9). All money in this account shall be expended  
34 solely for the purposes of this title and for no other purposes  
35 whatsoever. Contributions to this account shall accrue and become  
36 payable by each employer, except employers as described in RCW

1 50.44.010 and 50.44.030 who have properly elected to make payments in  
2 lieu of contributions, taxable local government employers as described  
3 in RCW 50.44.035, those employers who are required to make payments in  
4 lieu of contributions, those employers described under RCW  
5 50.29.025(~~(1)(b)~~) (1)(f)(ii), and those qualified employers assigned  
6 rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at  
7 a basic rate of one one-hundredth of one percent. The amount of wages  
8 subject to tax shall be determined under RCW 50.24.010. Any amount of  
9 contributions payable under this subsection (1)(b) that exceeds the  
10 amount that would have been collected at a rate of four one-thousandths  
11 of one percent must be deposited in the unemployment compensation trust  
12 fund.

13 (c) For the first calendar quarter of 1994 only, the basic two one-  
14 hundredths of one percent contribution payable under (a) of this  
15 subsection shall be increased by one-hundredth of one percent to a  
16 total rate of three one-hundredths of one percent. The proceeds of  
17 this incremental one-hundredth of one percent shall be used solely for  
18 the purposes described in section 22, chapter 483, Laws of 1993, and  
19 for the purposes of conducting an evaluation of the call center  
20 approach to unemployment insurance under section 5, chapter 161, Laws  
21 of 1998. During the 1997-1999 fiscal biennium, any surplus from  
22 contributions payable under this subsection (c) may be deposited in the  
23 unemployment compensation trust fund, used to support tax and wage  
24 automated systems projects that simplify and streamline employer  
25 reporting, or both.

26 (2)(a) Contributions under this section shall become due and be  
27 paid by each employer under rules as the commissioner may prescribe,  
28 and shall not be deducted, in whole or in part, from the remuneration  
29 of individuals in the employ of the employer. Any deduction in  
30 violation of this section is unlawful.

31 (b) In the payment of any contributions under this section, a  
32 fractional part of a cent shall be disregarded unless it amounts to  
33 one-half cent or more, in which case it shall be increased to one cent.

34 (3) If the commissioner determines that federal funding has been  
35 increased to provide financing for the services specified in chapter  
36 50.62 RCW, the commissioner shall direct that collection of  
37 contributions under this section be terminated on the following January  
38 1st.

1           **Sec. 24.** RCW 50.20.190 and 2002 c 371 s 915 are each amended to  
2 read as follows:

3           (1) An individual who is paid any amount as benefits under this  
4 title to which he or she is not entitled shall, unless otherwise  
5 relieved pursuant to this section, be liable for repayment of the  
6 amount overpaid. The department shall issue an overpayment assessment  
7 setting forth the reasons for and the amount of the overpayment. The  
8 amount assessed, to the extent not collected, may be deducted from any  
9 future benefits payable to the individual: PROVIDED, That in the  
10 absence of a back pay award, a settlement affecting the allowance of  
11 benefits, fraud, misrepresentation, or willful nondisclosure, every  
12 determination of liability shall be mailed or personally served not  
13 later than two years after the close of or final payment made on the  
14 individual's applicable benefit year for which the purported  
15 overpayment was made, whichever is later, unless the merits of the  
16 claim are subjected to administrative or judicial review in which event  
17 the period for serving the determination of liability shall be extended  
18 to allow service of the determination of liability during the six-month  
19 period following the final decision affecting the claim.

20           (2) The commissioner may waive an overpayment if the commissioner  
21 finds that the overpayment was not the result of fraud,  
22 misrepresentation, willful nondisclosure, or fault attributable to the  
23 individual and that the recovery thereof would be against equity and  
24 good conscience: PROVIDED, HOWEVER, That the overpayment so waived  
25 shall be charged against the individual's applicable entitlement for  
26 the eligibility period containing the weeks to which the overpayment  
27 was attributed as though such benefits had been properly paid.

28           (3) Any assessment herein provided shall constitute a determination  
29 of liability from which an appeal may be had in the same manner and to  
30 the same extent as provided for appeals relating to determinations in  
31 respect to claims for benefits: PROVIDED, That an appeal from any  
32 determination covering overpayment only shall be deemed to be an appeal  
33 from the determination which was the basis for establishing the  
34 overpayment unless the merits involved in the issue set forth in such  
35 determination have already been heard and passed upon by the appeal  
36 tribunal. If no such appeal is taken to the appeal tribunal by the  
37 individual within thirty days of the delivery of the notice of  
38 determination of liability, or within thirty days of the mailing of the

1 notice of determination, whichever is the earlier, the determination of  
2 liability shall be deemed conclusive and final. Whenever any such  
3 notice of determination of liability becomes conclusive and final, the  
4 commissioner, upon giving at least twenty days notice by certified mail  
5 return receipt requested to the individual's last known address of the  
6 intended action, may file with the superior court clerk of any county  
7 within the state a warrant in the amount of the notice of determination  
8 of liability plus a filing fee under RCW 36.18.012(10). The clerk of  
9 the county where the warrant is filed shall immediately designate a  
10 superior court cause number for the warrant, and the clerk shall cause  
11 to be entered in the judgment docket under the superior court cause  
12 number assigned to the warrant, the name of the person(s) mentioned in  
13 the warrant, the amount of the notice of determination of liability,  
14 and the date when the warrant was filed. The amount of the warrant as  
15 docketed shall become a lien upon the title to, and any interest in,  
16 all real and personal property of the person(s) against whom the  
17 warrant is issued, the same as a judgment in a civil case duly docketed  
18 in the office of such clerk. A warrant so docketed shall be sufficient  
19 to support the issuance of writs of execution and writs of garnishment  
20 in favor of the state in the manner provided by law for a civil  
21 judgment. A copy of the warrant shall be mailed to the person(s)  
22 mentioned in the warrant by certified mail to the person's last known  
23 address within five days of its filing with the clerk.

24 (4) On request of any agency which administers an employment  
25 security law of another state, the United States, or a foreign  
26 government and which has found in accordance with the provisions of  
27 such law that a claimant is liable to repay benefits received under  
28 such law, the commissioner may collect the amount of such benefits from  
29 the claimant to be refunded to the agency. In any case in which under  
30 this section a claimant is liable to repay any amount to the agency of  
31 another state, the United States, or a foreign government, such amounts  
32 may be collected without interest by civil action in the name of the  
33 commissioner acting as agent for such agency if the other state, the  
34 United States, or the foreign government extends such collection rights  
35 to the employment security department of the state of Washington, and  
36 provided that the court costs be paid by the governmental agency  
37 benefiting from such collection.

1 (5) Any employer who is a party to a back pay award or settlement  
2 due to loss of wages shall, within thirty days of the award or  
3 settlement, report to the department the amount of the award or  
4 settlement, the name and social security number of the recipient of the  
5 award or settlement, and the period for which it is awarded. When an  
6 individual has been awarded or receives back pay, for benefit purposes  
7 the amount of the back pay shall constitute wages paid in the period  
8 for which it was awarded. For contribution purposes, the back pay  
9 award or settlement shall constitute wages paid in the period in which  
10 it was actually paid. The following requirements shall also apply:

11 (a) The employer shall reduce the amount of the back pay award or  
12 settlement by an amount determined by the department based upon the  
13 amount of unemployment benefits received by the recipient of the award  
14 or settlement during the period for which the back pay award or  
15 settlement was awarded;

16 (b) The employer shall pay to the unemployment compensation fund,  
17 in a manner specified by the commissioner, an amount equal to the  
18 amount of such reduction;

19 (c) The employer shall also pay to the department any taxes due for  
20 unemployment insurance purposes on the entire amount of the back pay  
21 award or settlement notwithstanding any reduction made pursuant to (a)  
22 of this subsection;

23 (d) If the employer fails to reduce the amount of the back pay  
24 award or settlement as required in (a) of this subsection, the  
25 department shall issue an overpayment assessment against the recipient  
26 of the award or settlement in the amount that the back pay award or  
27 settlement should have been reduced; and

28 (e) If the employer fails to pay to the department an amount equal  
29 to the reduction as required in (b) of this subsection, the department  
30 shall issue an assessment of liability against the employer which shall  
31 be collected pursuant to the procedures for collection of assessments  
32 provided herein and in RCW 50.24.110.

33 (6) When an individual fails to repay an overpayment assessment  
34 that is due and fails to arrange for satisfactory repayment terms, the  
35 commissioner shall impose an interest penalty of one percent per month  
36 of the outstanding balance. Interest shall accrue immediately on  
37 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed  
38 when the assessment becomes final. For any other overpayment, interest

1 shall accrue when the individual has missed two or more of (~~their~~)  
2 the individual's monthly payments either partially or in full. The  
3 interest penalty shall be used, first, to fully fund either social  
4 security number cross-match audits or other more effective activities  
5 that ensure that individuals are entitled to all amounts of benefits  
6 that they are paid and, second, to fund other detection and recovery of  
7 overpayment and collection activities (~~and, during the 2001-2003~~  
8 ~~fiscal biennium, the cost of worker retraining programs at community~~  
9 ~~and technical colleges as appropriated by the legislature)).~~

10 **Sec. 25.** RCW 50.04.206 and 1990 c 245 s 3 are each amended to read  
11 as follows:

12 The term "employment" shall not include service that is performed  
13 by a nonresident alien for the period he or she is temporarily present  
14 in the United States as a nonimmigrant under subparagraph (F), (H)(ii),  
15 (H)(iii), or (J) of section 101(a)(15) of the federal immigration and  
16 naturalization act, as amended, and that is performed to carry out the  
17 purpose specified in the applicable subparagraph of the federal  
18 immigration and naturalization act.

19 **PART III - ADMINISTRATION**

20 **Sec. 26.** RCW 50.20.080 and 2000 c 2 s 14 are each amended to read  
21 as follows:

22 (1) An individual is disqualified for benefits, if the commissioner  
23 finds that the individual has failed without good cause, either to  
24 apply for available, suitable work when so directed by the employment  
25 office or the commissioner, or to accept suitable work when offered the  
26 individual, or to return to his or her customary self-employment (if  
27 any) when so directed by the commissioner. Such disqualification shall  
28 begin with the week of the refusal and thereafter for seven calendar  
29 weeks and continue until the individual has obtained bona fide work in  
30 employment covered by this title and earned wages in that employment of  
31 not less than seven times his or her suspended weekly benefit amount.

32 (2) Upon receiving notification from an individual's base year  
33 employer that work is available, the commissioner shall notify the  
34 individual that the work is available and direct the individual to

1 contact the employer unless the individual left work voluntarily for a  
2 reason specified in RCW 50.20.050(1)(b) or (2)(b), as applicable.

3 **Sec. 27.** RCW 50.20.140 and 1998 c 161 s 2 are each amended to read  
4 as follows:

5 (1) An application for initial determination, a claim for waiting  
6 period, or a claim for benefits shall be filed in accordance with such  
7 rules as the commissioner may prescribe. An application for an initial  
8 determination may be made by any individual whether unemployed or not.  
9 Each employer shall post and maintain printed statements of such rules  
10 in places readily accessible to individuals in his or her employment  
11 and shall make available to each such individual at the time he or she  
12 becomes unemployed, a printed statement of such rules and such notices,  
13 instructions, and other material as the commissioner may by rule  
14 prescribe. Such printed material shall be supplied by the commissioner  
15 to each employer without cost to the employer.

16 (2) The term "application for initial determination" shall mean a  
17 request in writing, or by other means as determined by the  
18 commissioner, for an initial determination. The term "claim for  
19 waiting period" shall mean a certification, after the close of a given  
20 week, that the requirements stated herein for eligibility for waiting  
21 period have been met. The term "claim for benefits" shall mean a  
22 certification, after the close of a given week, that the requirements  
23 stated herein for eligibility for receipt of benefits have been met.

24 (3) A representative designated by the commissioner shall take the  
25 application for initial determination and for the claim for waiting  
26 period credits or for benefits. When an application for initial  
27 determination has been made, the employment security department shall  
28 promptly make an initial determination which shall be a statement of  
29 the applicant's base year wages, his or her weekly benefit amount, his  
30 or her maximum amount of benefits potentially payable, and his or her  
31 benefit year. Such determination shall fix the general conditions  
32 under which waiting period credit shall be granted and under which  
33 benefits shall be paid during any period of unemployment occurring  
34 within the benefit year fixed by such determination.

35 (4) The legislature finds that the shift by the employment security  
36 department from in-person written applications for unemployment  
37 insurance benefits to call centers and internet applications has

1 increased the potential for fraud. Therefore, the employment security  
2 department must require claimants filing initial and weekly claims  
3 telephonically or electronically to provide additional proof of  
4 identity, such as a valid driver's license, a valid identification  
5 card, or other similar proof specified in rule by the department.

6 NEW SECTION. Sec. 28. The employment security department shall:

7 (1) In consultation with an advisory committee equally representing  
8 business and labor, identify the programs funded by special  
9 administrative contributions under Title 50 RCW and report to the  
10 advisory committee the expenditures for these programs annually and  
11 cumulatively since enactment. Following its report to the advisory  
12 committee, the department shall report its findings and any  
13 recommendations to the appropriate committees of the legislature by  
14 December 1, 2003.

15 (2) Conduct a review of the type, rate, and causes of employer  
16 turnover in the unemployment compensation system, using unified  
17 business identifier information or other relevant data bases and  
18 methods. The department shall report its findings and any  
19 recommendations to the appropriate committees of the legislature by  
20 December 1, 2003.

21 **PART IV - MISCELLANEOUS**

22 **Sec. 29.** RCW 50.20.043 and 1985 c 40 s 1 are each amended to read  
23 as follows:

24 No otherwise eligible individual shall be denied benefits for any  
25 week because the individual is in training with the approval of the  
26 commissioner, nor shall such individual be denied benefits with respect  
27 to any week in which the individual is satisfactorily progressing in a  
28 training program with the approval of the commissioner by reason of the  
29 application of RCW 50.20.010(~~((+3))~~) (1)(c), (~~((50-20-015-7))~~) 50.20.080,  
30 or 50.22.020(1) relating to availability for work and active search for  
31 work, or failure to apply for or refusal to accept suitable work.

32 An individual who the commissioner determines to be a dislocated  
33 worker as defined by RCW 50.04.075 and who is satisfactorily  
34 progressing in a training program approved by the commissioner shall be  
35 considered to be in training with the approval of the commissioner.

1       **Sec. 30.** RCW 50.20.160 and 1990 c 245 s 4 are each amended to read  
2 as follows:

3       (1) A determination of amount of benefits potentially payable  
4 issued pursuant to the provisions of RCW 50.20.120 and 50.20.140 shall  
5 not serve as a basis for appeal but shall be subject to request by the  
6 claimant for reconsideration and/or for redetermination by the  
7 commissioner at any time within one year from the date of delivery or  
8 mailing of such determination, or any redetermination thereof:  
9 PROVIDED, That in the absence of fraud or misrepresentation on the part  
10 of the claimant, any benefits paid prior to the date of any  
11 redetermination which reduces the amount of benefits payable shall not  
12 be subject to recovery under the provisions of RCW 50.20.190. A denial  
13 of a request to reconsider or a redetermination shall be furnished the  
14 claimant in writing and provide the basis for appeal under the  
15 provisions of RCW 50.32.020.

16       (2) A determination of denial of benefits issued under the  
17 provisions of RCW 50.20.180 shall become final, in absence of timely  
18 appeal therefrom: PROVIDED, That the commissioner may reconsider and  
19 redetermine such determinations at any time within one year from  
20 delivery or mailing to correct an error in identity, omission of fact,  
21 or misapplication of law with respect to the facts.

22       (3) A determination of allowance of benefits shall become final, in  
23 absence of a timely appeal therefrom: PROVIDED, That the commissioner  
24 may redetermine such allowance at any time within two years following  
25 the benefit year in which such allowance was made in order to recover  
26 any benefits improperly paid and for which recovery is provided under  
27 the provisions of RCW 50.20.190: AND PROVIDED FURTHER, That in the  
28 absence of fraud, misrepresentation, or nondisclosure, this provision  
29 or the provisions of RCW 50.20.190 shall not be construed so as to  
30 permit redetermination or recovery of an allowance of benefits which  
31 having been made after consideration of the provisions of RCW  
32 50.20.010(~~(+3)~~) (1)(c), or the provisions of RCW 50.20.050, 50.20.060,  
33 50.20.080, or 50.20.090 has become final.

34       (4) A redetermination may be made at any time: (a) To conform to  
35 a final court decision applicable to either an initial determination or  
36 a determination of denial or allowance of benefits; (b) in the event of  
37 a back pay award or settlement affecting the allowance of benefits; or  
38 (c) in the case of fraud, misrepresentation, or willful nondisclosure.

1 Written notice of any such redetermination shall be promptly given by  
2 mail or delivered to such interested parties as were notified of the  
3 initial determination or determination of denial or allowance of  
4 benefits and any new interested party or parties who, pursuant to such  
5 regulation as the commissioner may prescribe, would be an interested  
6 party.

7 **Sec. 31.** RCW 50.32.040 and 1989 c 175 s 117 are each amended to  
8 read as follows:

9 In any proceeding before an appeal tribunal involving a dispute of  
10 an individual's initial determination, all matters covered by such  
11 initial determination shall be deemed to be in issue irrespective of  
12 the particular ground or grounds set forth in the notice of appeal.

13 In any proceeding before an appeal tribunal involving a dispute of  
14 an individual's claim for waiting period credit or claim for benefits,  
15 all matters and provisions of this title relating to the individual's  
16 right to receive such credit or benefits for the period in question,  
17 including but not limited to the question and nature of the claimant's  
18 availability for work within the meaning of RCW 50.20.010(~~(+3)~~) (1)(c)  
19 and 50.20.080, shall be deemed to be in issue irrespective of the  
20 particular ground or grounds set forth in the notice of appeal in  
21 single claimant cases. The claimant's availability for work shall be  
22 determined apart from all other matters.

23 In any proceeding before an appeal tribunal involving an  
24 individual's right to benefits, all parties shall be afforded an  
25 opportunity for hearing after not less than seven days' notice in  
26 accordance with RCW 34.05.434.

27 In any proceeding involving an appeal relating to benefit  
28 determinations or benefit claims, the appeal tribunal, after affording  
29 the parties reasonable opportunity for fair hearing, shall render its  
30 decision affirming, modifying, or setting aside the determination or  
31 decisions of the unemployment compensation division. The parties shall  
32 be duly notified of such appeal tribunal's decision together with its  
33 reasons therefor, which shall be deemed to be the final decision on the  
34 initial determination or the claim for waiting period credit or the  
35 claim for benefits unless, within thirty days after the date of  
36 notification or mailing, whichever is the earlier, of such decision,

1 further appeal is perfected pursuant to the provisions of this title  
2 relating to review by the commissioner.

3 **Sec. 32.** RCW 50.20.100 and 2002 c 8 s 2 are each amended to read  
4 as follows:

5 (1) Suitable work for an individual is employment in an occupation  
6 in keeping with the individual's prior work experience, education, or  
7 training and if the individual has no prior work experience, special  
8 education, or training for employment available in the general area,  
9 then employment which the individual would have the physical and mental  
10 ability to perform. In determining whether work is suitable for an  
11 individual, the commissioner shall also consider the degree of risk  
12 involved to the individual's health, safety, and morals, the  
13 individual's physical fitness, the individual's length of unemployment  
14 and prospects for securing local work in the individual's customary  
15 occupation, the distance of the available work from the individual's  
16 residence, and such other factors as the commissioner may deem  
17 pertinent, including state and national emergencies.

18 (2) For individuals with base year work experience in agricultural  
19 labor, any agricultural labor available from any employer shall be  
20 deemed suitable unless it meets conditions in RCW 50.20.110 or the  
21 commissioner finds elements of specific work opportunity unsuitable for  
22 a particular individual.

23 (3) For individuals who have qualified for unemployment  
24 compensation benefits under RCW 50.20.050(~~((2)(d))~~) (1)(b)(iii) or  
25 (2)(b)(v), as applicable, an evaluation of the suitability of the work  
26 must consider the individual's need to address the physical,  
27 psychological, legal, and other effects of domestic violence or  
28 stalking.

29 **Sec. 33.** RCW 28B.50.030 and 1997 c 367 s 13 are each amended to  
30 read as follows:

31 As used in this chapter, unless the context requires otherwise, the  
32 term:

33 (1) "System" shall mean the state system of community and technical  
34 colleges, which shall be a system of higher education.

35 (2) "Board" shall mean the work force training and education  
36 coordinating board.

1 (3) "College board" shall mean the state board for community and  
2 technical colleges created by this chapter.

3 (4) "Director" shall mean the administrative director for the state  
4 system of community and technical colleges.

5 (5) "District" shall mean any one of the community and technical  
6 college districts created by this chapter.

7 (6) "Board of trustees" shall mean the local community and  
8 technical college board of trustees established for each college  
9 district within the state.

10 (7) "Occupational education" shall mean that education or training  
11 that will prepare a student for employment that does not require a  
12 baccalaureate degree.

13 (8) "K-12 system" shall mean the public school program including  
14 kindergarten through the twelfth grade.

15 (9) "Common school board" shall mean a public school district board  
16 of directors.

17 (10) "Community college" shall include those higher education  
18 institutions that conduct education programs under RCW 28B.50.020.

19 (11) "Technical college" shall include those higher education  
20 institutions with the sole mission of conducting occupational  
21 education, basic skills, literacy programs, and offering on short  
22 notice, when appropriate, programs that meet specific industry needs.  
23 The programs of technical colleges shall include, but not be limited  
24 to, continuous enrollment, competency-based instruction, industry-  
25 experienced faculty, curriculum integrating vocational and basic skills  
26 education, and curriculum approved by representatives of employers and  
27 labor. For purposes of this chapter, technical colleges shall include  
28 Lake Washington Vocational-Technical Institute, Renton Vocational-  
29 Technical Institute, Bates Vocational-Technical Institute, Clover Park  
30 Vocational Institute, and Bellingham Vocational-Technical Institute.

31 (12) "Adult education" shall mean all education or instruction,  
32 including academic, vocational education or training, basic skills and  
33 literacy training, and "occupational education" provided by public  
34 educational institutions, including common school districts for persons  
35 who are eighteen years of age and over or who hold a high school  
36 diploma or certificate. However, "adult education" shall not include  
37 academic education or instruction for persons under twenty-one years of  
38 age who do not hold a high school degree or diploma and who are

1 attending a public high school for the sole purpose of obtaining a high  
2 school diploma or certificate, nor shall "adult education" include  
3 education or instruction provided by any four year public institution  
4 of higher education.

5 (13) "Dislocated forest product worker" shall mean a forest  
6 products worker who: (a)(i) Has been terminated or received notice of  
7 termination from employment and is unlikely to return to employment in  
8 the individual's principal occupation or previous industry because of  
9 a diminishing demand for his or her skills in that occupation or  
10 industry; or (ii) is self-employed and has been displaced from his or  
11 her business because of the diminishing demand for the (~~business's~~)  
12 business' services or goods; and (b) at the time of last separation  
13 from employment, resided in or was employed in a rural natural  
14 resources impact area.

15 (14) "Forest products worker" shall mean a worker in the forest  
16 products industries affected by the reduction of forest fiber  
17 enhancement, transportation, or production. The workers included  
18 within this definition shall be determined by the employment security  
19 department, but shall include workers employed in the industries  
20 assigned the major group standard industrial classification codes "24"  
21 and "26" and the industries involved in the harvesting and management  
22 of logs, transportation of logs and wood products, processing of wood  
23 products, and the manufacturing and distribution of wood processing and  
24 logging equipment. The commissioner may adopt rules further  
25 interpreting these definitions. For the purposes of this subsection,  
26 "standard industrial classification code" means the code identified in  
27 RCW 50.29.025(~~(+6)(e))~~) (3).

28 (15) "Dislocated salmon fishing worker" means a finfish products  
29 worker who: (a)(i) Has been terminated or received notice of  
30 termination from employment and is unlikely to return to employment in  
31 the individual's principal occupation or previous industry because of  
32 a diminishing demand for his or her skills in that occupation or  
33 industry; or (ii) is self-employed and has been displaced from his or  
34 her business because of the diminishing demand for the business's  
35 services or goods; and (b) at the time of last separation from  
36 employment, resided in or was employed in a rural natural resources  
37 impact area.

1 (16) "Salmon fishing worker" means a worker in the finfish industry  
2 affected by 1994 or future salmon disasters. The workers included  
3 within this definition shall be determined by the employment security  
4 department, but shall include workers employed in the industries  
5 involved in the commercial and recreational harvesting of finfish  
6 including buying and processing finfish. The commissioner may adopt  
7 rules further interpreting these definitions.

8 (17) "Rural natural resources impact area" means:

9 (a) A nonmetropolitan county, as defined by the 1990 decennial  
10 census, that meets three of the five criteria set forth in subsection  
11 (18) of this section;

12 (b) A nonmetropolitan county with a population of less than forty  
13 thousand in the 1990 decennial census, that meets two of the five  
14 criteria as set forth in subsection (18) of this section; or

15 (c) A nonurbanized area, as defined by the 1990 decennial census,  
16 that is located in a metropolitan county that meets three of the five  
17 criteria set forth in subsection (18) of this section.

18 (18) For the purposes of designating rural natural resources impact  
19 areas, the following criteria shall be considered:

20 (a) A lumber and wood products employment location quotient at or  
21 above the state average;

22 (b) A commercial salmon fishing employment location quotient at or  
23 above the state average;

24 (c) Projected or actual direct lumber and wood products job losses  
25 of one hundred positions or more;

26 (d) Projected or actual direct commercial salmon fishing job losses  
27 of one hundred positions or more; and

28 (e) An unemployment rate twenty percent or more above the state  
29 average. The counties that meet these criteria shall be determined by  
30 the employment security department for the most recent year for which  
31 data is available. For the purposes of administration of programs  
32 under this chapter, the United States post office five-digit zip code  
33 delivery areas will be used to determine residence status for  
34 eligibility purposes. For the purpose of this definition, a zip code  
35 delivery area of which any part is ten miles or more from an urbanized  
36 area is considered nonurbanized. A zip code totally surrounded by zip  
37 codes qualifying as nonurbanized under this definition is also

1 considered nonurbanized. The office of financial management shall make  
2 available a zip code listing of the areas to all agencies and  
3 organizations providing services under this chapter.

4 NEW SECTION. **Sec. 34.** The commissioner of the employment security  
5 department may adopt such rules as are necessary to implement this act.

6 NEW SECTION. **Sec. 35.** The following acts or parts of acts are  
7 each repealed:

8 (1) RCW 50.20.015 (Person with marginal labor force attachment) and  
9 1986 c 106 s 1, 1985 c 285 s 3, & 1984 c 205 s 9;

10 (2) RCW 50.20.045 (Employee separated from employment due to wage  
11 garnishment not disqualified) and 1969 ex.s. c 264 s 35;

12 (3) RCW 50.20.125 (Maximum amount payable weekly) and 2002 c 149 s  
13 3; and

14 (4) RCW 50.29.045 (Contribution rate--Insolvency surcharge) and  
15 2002 c 149 s 9.

16 NEW SECTION. **Sec. 36.** If any part of this act is found to be in  
17 conflict with federal requirements that are a prescribed condition to  
18 the allocation of federal funds to the state or the eligibility of  
19 employers in this state for federal unemployment tax credits, the  
20 conflicting part of this act is inoperative solely to the extent of the  
21 conflict, and the finding or determination does not affect the  
22 operation of the remainder of this act. Rules adopted under this act  
23 must meet federal requirements that are a necessary condition to the  
24 receipt of federal funds by the state or the granting of federal  
25 unemployment tax credits to employers in this state.

26 NEW SECTION. **Sec. 37.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 38.** (1) Section 28 of this act expires January  
31 1, 2004.

32 (2) Section 12 of this act expires January 1, 2005.

1        NEW SECTION.   **Sec. 39.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   immediately.

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